

A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber in the City Hall, on Monday, November 28, 1960, at 3 o'clock p.m., with Mayor Pro tempore Hitch presiding, and Councilmen Albea, Babcock, Dellinger, Myers, Smith and Whittington present.

ABSENT: Mayor Smith.

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INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Whittington, and unanimously carried, the Minutes of the last meeting on November 21st, were approved as submitted.

JOHN C. BENNETT, ACCOUNTANT, EXPRESSES CRITICISM OF TYPE INVESTMENTS PERMITTED FOR CHARLOTTE FIREMEN'S RETIREMENT SYSTEM FUNDS.

Mr. John C. Bennett, local Accountant, stated he has read audit reports of the Charlotte Firemen's Retirement System, and found that it is open to losses through inflation as the investment of the funds are limited to Federal, State and Municipal bonds, which provide a limited earning power and furnish only protection against deflation. That well managed funds should consist of 75% high grade stock; that the Fund has been decreasing every year, and when firemen retire they will find they will receive only one-third of what they expect. He suggested that Council form a committee and see if some legislation cannot be passed to permit wise investments in common stocks to provide protection against inflation.

Councilman Dellinger stated the Council has had actuarial studies made of the Firemen's Retirement System and he thinks if Mr. Bennett will discuss it with Chief Charles he will find that the system is actuarially sound.

PROTEST AGAINST WATER AND SEWER RATES.

Mrs. B. A. Stevenson appeared before Council in protest of the water and sewer rates, and stated she realizes the sewer charge was supposed to be temporary but she has never seen a charge of tax discontinued once it is put on; she urged that some relief be given citizens. Mayor pro tem Hitch advised her that this was an emergency measure and the Council is endeavoring to adjust the rates by January 1st.

DECISION ON ORDINANCE NO. 703 AMENDING THE ZONING ORDINANCE OF THE PERIMETER AREA TO CHANGE ZONING ON PROPERTY EAST OF YORMONT ROAD, FROM RURAL TO INDUSTRIAL, ON PETITION OF LAWINGS, INC. CONTINUED UNTIL DECEMBER 19TH.

Upon motion of Councilman Babcock, seconded by Councilman Smith, and

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unanimously carried, Council decision was continued until December 19th on Ordinance No. 703 to Amend the Zoning Ordinance of the Perimeter Area to change the zoning on property east of Yormont Road, from Rural to Industrial, on the petition of Lawings, Inc.

DECISION ON ORDINANCE NO. 704 AMENDING THE ZONING ORDINANCE OF THE PERIMETER AREA BY CHANGING ZONING ON PROPERTY BETWEEN TODDVILLE ROAD AND PAW CREEK, FROM RURAL TO INDUSTRIAL, ON PETITION OF SUSAN AND W. P. TODD, CONTINUED FOR ONE WEEK.

Councilman Whittington moved that Council decision on Ordinance No. 704 to Amend the Zoning Ordinance of the Perimeter area by changing the zoning on property between Toddville Road and Paw Creek, from Rural to Industrial on petition of Susan and W. P. Todd, be continued one week in order that he may view the property. The motion was seconded by Councilman Albea, and unanimously carried.

ORDINANCE NO. 705 AMENDING THE ZONING ORDINANCE OF THE PERIMETER AREA CHANGING ZONING ON PROPERTY ON THE EAST SIDE OF PARK ROAD, FROM MONTFORD DRIVE TO NEAR SENECA PLACE, FROM R-2 TO O-I, ON PETITION OF W. FRANK GRAHAM, ET AL, ADOPTED.

Upon motion of Councilman Babcock, seconded by Councilman Smith, and unanimously carried, Ordinance No. 705 Amending the Zoning Ordinance of the Perimeter Area by changing zoning on property on the east side of Park Road, from Montford Drive to near Seneca Place, from R-2 to O-I, on petition of W. Frank Graham, et al was adopted as recommended by the Planning Commission. The ordinance is recorded in full in Ordinance Book 13, at Page 21.

Mrs. W. M. Thaxton, 1321 Mockingbird Lane, filed a petition signed by the residents of the area that in the event the Graham property along Park Road is rezoned, the city require the developers to provide sidewalks the full length of the property along Park Road, in order that an area already extremely dangerous to pedestrians not be made more so. Councilman Smith advised Mrs. Thaxton that the Council has no authority to attach conditions to zoning or rezoning of property; however, he is of the opinion that the developer will construct sidewalks.

It was pointed out that the proposed amendment to the Subdivision Ordinance requiring the construction of sidewalks in future subdivisions, will not apply in this case as this is an old subdivision.

ORDINANCE NO. 706 AMENDING THE ZONING ORDINANCE OF CHARLOTTE CHANGING ZONING ON PROPERTY ON THE PLAZA, NORTH OF STRATFORD AVENUE, FROM R-2 TO B-1, ON PETITION OF GEORGE H. TALBOT, CONTINUED UNTIL NEXT HEARING DATE DECEMBER 19TH.

Mr. Louis Carter, Attorney for Mr. George H. Talbot, requesting a change in zoning from R-2 to B-1 of property on the east side of The Plaza, stated they were of the opinion that a hearing would be held today by the Council and therefore did not appear last week when the hearing was held, and he requested the matter be continued until the next zoning hearing date, in order that he may present his client's case. Councilman Smith moved that the matter be continued until the next hearing date, on December 19th, which was seconded by Councilman Babcock, and unanimously carried.

ORDINANCE NO. 708 AMENDING THE ZONING ORDINANCE OF CHARLOTTE CHANGING ZONING ON PROPERTY ON EAST SIDE OF KINGS DRIVE, FROM NEAR EAST 4TH STREET TO BAXTER STREET, FROM R-2 TO B-1, CONTINUED FOR 60 DAYS (JANUARY 23, 1961.)

In connection with the Council's desire to Amend the Zoning Ordinance to change the zoning on property on the east side of Kings Drive, from near East 4th Street to Baxter Street, from R-2 to B-1, and the recommendation of the Planning Board that the property should be rezoned under the improved regulations of the new zoning ordinance, now being prepared, Mayor pro tem Hitch asked Mr. McIntyre, Planning Director, if the new ordinance will be in effect within 60 days? Mr. McIntyre stated it will not; that probably the preliminary report will be presented Council within 60 days, after which hearings must be held, and then the Commission's final report made to Council. Councilman Myers moved that the matter be continued for 60 days, being January 23rd. The motion was seconded by Councilman Dellinger, and unanimously carried. Councilman Albea stated he is in favor of upholding the recommendation of the Planning Board, however, as the majority wishes to continue the case for 60 days he will vote in favor of it, without prejudice that he may vote as he wishes at that time.

ORDINANCE NO. 699 AMENDING THE ZONING ORDINANCE OF CHARLOTTE BY CHANGING ZONING ON PROPERTY AT 2443 PLAZA ROAD, FROM R-2 to B-1, ON PETITION OF DR. CHARLES LEIGHTON, DEFERRED ONE WEEK.

In connection with Ordinance No. 699 to Amend the Zoning Ordinance of Charlotte to change the zoning on property at 2443 Plaza Road, from R-2 to B-1, Mr. Bernstein, attorney for the petitioner, stated that Dr. Leighton purchased the property some months ago but finds the space is not sufficient for the size clinic he needs; also, they wish more parking space in the rear, and under B-1 zoning a building can be constructed 25-feet from the center of the street, which would leave the desired parking space in the rear.

Councilman Albea moved that the Ordinance be denied, as recommended by the Planning Board. Councilman Myers stated it appears to him this is a matter of variance and should be determined by the Zoning Board of Adjustment, and for that reason he upholds the Planning Board, and seconds the motion.

Mr. McIntyre, Planning Director, stated one reason for the Commission recommending the denial of the petition is that Dr. Leighton could then build up to the street right-of-way of the Plaza on the front and to the street right-of-way line of Catawba Avenue on the side. That a building constructed to these corner property lines would eliminate desirable site distance at the intersection of Catawba Avenue and The Plaza, thus creating a hazardous intersection. That since the petitioner purchased the property subject to established setback lines that serve to reduce congestion and hazards, the Commission recommended that the setbacks be maintained by retaining the present zoning classification of the property.

Councilman Smith stated this is the wrong approach to zoning in his opinion, as setback lines is an entirely different question. He then offered a substitute motion that Council decision be deferred one week, in order that it be given further study and that Mr. Bernstein may review the matter with his client. The motion was seconded by Councilman Babcock, and carried, with the votes cast as follows:

YEAS: Councilmen Smith, Babcock, Dellinger, Myers and Whittington.
NAYS: Councilman Albea.

ORDINANCE NO. 698 AMENDING THE ZONING ORDINANCE OF THE PERIMETER AREA BY CHANGING ZONING ON PROPERTY NEAR NE CORNER OF PLAZA ROAD AND EASTWAY DRIVE, FROM RURAL TO B-1, ON PETITION OF WINDELL CUNNINGHAM AND BRODIE MCQUAY, ET AL, DENIED.

Councilman Smith moved that Ordinance No. 698 Amending the Zoning Ordinance of the Perimeter Area by changing zoning on property near the northeast corner of Plaza Road and Eastway Drive, from Rural to B-1, on petition of Windell Cunningham and Brodie McQuay, be adopted. The motion was seconded by Councilman Babcock, and lost, and the ordinance was therefore denied by the following recorded vote:

YEAS: Councilmen Smith and Babcock.
NAYS: Councilmen Albea, Dellinger and Whittington.

Councilman Myers refrained from voting because of business connections.

RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS ON KILDARE DRIVE, FROM THE PLAZA TO OLINDA STREET, WITH COST TO BE ASSESSED AGAINST THE PROPERTY OWNERS.

The Council was advised that 67% of the property owners, owning 69% of the frontage on Kildare Drive, from The Plaza to Olinda Street, have filed a petition for the construction of curb and gutter and storm drains on both sides of Kildare Drive, from The Plaza to Olinda Street, with the understanding that the cost, exclusive of street intersections, will be assessed against their lots, with the option of paying said assessments in not more than five equal annual installments with interest, or cash payment in full without interest. That the Engineering Department estimates the cost at \$3,000.00.

Councilman Whittington moved that the petition be accepted and the expenditure of \$3,000.00 estimated cost on a repayment basis, be authorized, and that Resolution Authorizing the Construction of Permanent Improvements on Kildare Drive, from The Plaza to Olinda Street, be adopted. The motion was seconded by Councilman Dellinger, and unanimously carried. The resolution is recorded in full in Resolutions Book 4, at Page 71.

TEMPORARY SIDEWALK AUTHORIZED CONSTRUCTED FOR 200 FEET ON THE NORTH SIDE OF NORLAND DRIVE, FROM DRESDEN DRIVE TO EASTWAY JUNIOR HIGH SCHOOL.

In connection with the petition of the patrons of Eastway Junior High School for the construction of a sidewalk along Norland Road, from Central Avenue past the school to the intersection of Dresden Drive, Councilman Dellinger moved that a temporary sidewalk be installed for a distance of 200 feet on the north side of Norland Drive, from Dresden Drive to the school property, as recommended by the Traffic Engineer and Lieut. Livingston, in charge of School Safety. The motion was seconded by Councilman Smith, and unanimously carried.

CONSTRUCTION OF SANITARY SEWER TRUNK LINE AUTHORIZED IN BRIDLE PATH LANE AND WALKER ROAD.

Upon motion of Councilman Whittington, seconded by Councilman Albea, and unanimously carried, the construction of 1,992 feet of sanitary sewer trunk line was authorized in Bridle Path Lane and Walker Road, at an estimated cost of \$8,065.00, to be paid by the City from the new Sewer Bond Fund.

ACTION ON APPOINTMENT OF CONSULTANTS TO MAKE COMPREHENSIVE TRAFFIC PLAN AND PARKING SURVEY DEFERRED ONE WEEK TO PERMIT DOWNTOWN CHARLOTTE ASSOCIATION MEMBERS, CHAMBER OF COMMERCE TRAFFIC & TRANSPORTATION COMMITTEE AND OTHER INTERESTED PERSONS TO REVIEW PLAN.

Councilman Albea moved that contract be entered into with Wilbur Smith and Associates, the low bidder, to make a Comprehensive Traffic Plan and Parking Study of the central business district of Charlotte, at a total bid price of \$25,000.00. The motion was seconded by Councilman Whittington.

The question of the great difference in the bids, ranging from the low bid of \$25,000.00 to the high bid of \$97,500.00, was raised, and the Traffic Engineer advised the high bid was, of course, way out of line, and the low bid of Wilbur Smith & Associates would have, no doubt, been around \$37,500.00 but for the fact that much of the preliminary work in the central business district was done by them when they made the Thoroughfare Plan Study, which portion was eliminated from the Plan as the Federal Government would not participate in it. Councilman Smith asked if Mr. Hoose has discussed the proposed Plan and Survey with the Downtown Charlotte Association recently, and Mr. Hoose stated he discussed it with Mr. Camper, Executive Secretary, and the Board of Directors in July. Councilman Smith offered a substitute motion that action in awarding the contract be deferred for one week and that Mr. Hoose confer with Mr. Camper and the Chamber of Commerce Traffic & Transportation Committee and get their reaction, and that he notify all interested persons that the appointment of the consultant will be considered at the Council Meeting next week. The motion was seconded by Councilman Dellinger. At the question of Councilman Whittington as to what the Survey will do, Mr. Hoose stated it is badly needed, that one phase is dealing with street widths traffic wise; also, in relationship to parking there is the street movement to be established, all of which is interrelated. Councilman Babcock stated he is not convinced of the need of the study, and he objects to spending \$25,000.00 unless he knows what the need is.

The vote was taken on the substitute motion by Councilman Smith, and carried, by the following recorded vote:

YEAS: Councilmen Smith, Dellinger, Albea, Babcock and Myers.
NAYS: Councilman Whittington.

SPECIAL OFFICER PERMIT AUTHORIZED ISSUED TO CHARLES W. MULLINAX.

Motion was made by Councilman Babcock, seconded by Councilman Albea, and unanimously carried, authorizing the issuance of a Special Officer Permit to Charles W. Mullinax for use on the premises of Southern Railway Company.

TRANSFER OF CEMETERY LOT.

Upon motion of Councilman Albea, seconded by Councilman Whittington, and unanimously carried, the Mayor and City Clerk were authorized to execute a deed with Mrs. Lucy B. May, for Lot 289, Section 4-A, Evergreen Cemetery, at \$126.00.

RESOLUTION ADOPTING SETBACK LINES ON EAST THIRD STREET, FROM INDEPENDENCE BOULEVARD TO SOUTH MCDOWELL STREET.

A resolution entitled: "Resolution Adopting Setback Lines on East Third

Street, from Independence Boulevard to South McDowell Street" was introduced and read, and upon motion of Councilman Dellinger, seconded by Councilman Whittington, was unanimously adopted. The resolution is recorded in full in Resolutions Book 4, at Page 72.

REMOVAL OF LEAVES FROM PRIVATE PREMISES REQUESTED EXPEDITED.

Councilman Dellinger stated he has no criticism of the operation of the Motor Transport Department Sanitary Division, as they have all they can do, but he is receiving many calls about leaves not being moved from private premises. It is probably a case of too many leaves and too little help, and he is wondering if more men are needed? Mr. Bobo, Administrative Assistant, advised that the Street Department has a new scavenger machine, which would probably speed up the work. Councilman Dellinger requested that he see if the machine cannot be used in the removal of leaves at once.

UNPAVED PARKING LOT AT AUDITORIUM-COLISEUM RECOMMENDED RETURNED TO OWNER FOR PAVING, MAINTAINING AND OPERATING FOR CITY'S USE.

Councilman Smith advised that he and Councilman Myers met with the Auditorium-Coliseum Authority and Mr. Dwight Phillips relative to the unpaved parking lot now leased from Mr. Phillips for 20 years at \$10,000 per year, which the city maintains; that a tentative agreement was reached with Mr. Phillips that he take the lot back, pave and drain it and operate it at the same rate charged by the City on the adjacent lots, keep attendants on the lot, use it in connection with his new building and under agreement give the City the use of the lot for a period of 30 years. Councilman Smith stated at present this is used as an overflow lot but in its present unpaved condition, the City is losing money on it. He stated further that he and Councilman Myers think this plan is fair to Mr. Phillips, and the City would be relieved of paying the \$10,000.00 per year and have a paved lot available. Also, where the circus wagons park, the city will have free maintenance with an option to purchase it. He stated they found Mr. Phillips fully cooperative and think the City should give him credit; that they think the new arrangement is practical and fair to the City. That the Authority will have to make a recommendation to this effect to the Council, which they have not done; that they were in agreement with the plan but one or two of their members were not present at the meeting and they wished to discuss it with them. He stated something should be done immediately before bad weather and he hopes the Authority will act without delay.

REPORT ON STATUS OF GOOD SAMARITAN HOSPITAL TRANSFER TO CITY.

Mr. John Shaw, City Attorney, reported that the Bond Attorneys in New York have requested that the Deed to Good Samaritan Hospital include "public health" usage instead of "hospitalization"; that he has submitted the request to Mr. Rouser, Attorney for Board of Trustees and he understands the Trustees have submitted the request to the Chancellor, so at least it is in the right channels. Councilman Hitch stated that anything the City Attorney can do to push it along will be appreciated.

EAST FIFTH STREET OPENING REQUESTED EXPEDITED.

Councilman Dellinger stated he would like to see the East Fifth Street extension program expedited, and he moved that the City Manager instruct

the Engineering Department to put all forces on this project and see if something cannot be done to expedite the opening of the east end of the street. The motion was seconded by Councilman Smith, and unanimously carried.

CHECK REQUESTED INTO OPERATION OF ICE CREAM TRUCKS.

Councilman Dellinger asked that the City Manager check into the Ice Cream Trucks not having a light on the front, and also their parking on the wrong side of the street.

COUNCIL MEETING ON DECEMBER 12TH TO BE HELD AT 2 O'CLOCK P.M. BECAUSE OF CONSIDERATION OF WATER AND SEWER RATES.

Mayor pro tem Hitch called the attention of Council that the water and sewer rates question will be considered at the Council Meeting on December 12th. At the suggestion of Councilman Myers it was agreed that the formal meeting be held at 2 o'clock instead of 3 o'clock.

ADJOURNMENT.

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

Lillian R. Hoffman
Lillian R. Hoffman, City Clerk