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An Adjourned meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber in the City Hall, on Wednesday, December 27, 1961, at 3 o'clock p.m., with Mayor Brookshire presiding, and Councilmen Albea, Bryant, Dellinger, Jordan, Smith, Thrower and Whittington present.

ABSENT: None.

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INVOCATION.

The invocation was given by the Reverend Jimmy Johnson, Assistant Pastor, The Little Church on the Lane.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Whittington, and unanimously carried, the Minutes of the last meeting on December 18th were approved as submitted.

SALE OF PROPERTY GIVEN PARK & RECREATION COMMISSION BY ERVIN CONSTRUCTION COMPANY OFF EASTWAY DRIVE IN VICINITY OF METHODIST HOME AUTHORIZED SOLD TO JAMES C. EVANS, HIGH BIDDER AT PUBLIC AUCTION.

Mr. John D. Shaw, Attorney advised that the Charlotte Park & Recreation Commission was given several tracts of land in the vicinity of the Methodist Home, and the tract given by Mr. Spangler will be used for park purposes, and as the 3.866 acres given by Ervin Construction Company has been determined as not needed, it was sold at public auctin on December 4th to Mr. James C. Evans at \$4,500.00, and has remained open for 10 days without an upset bid; therefore, they request Council approval of the sale. Councilman Bryant moved that the sale to the high bidder, Mr. James C. Evans, at \$4,500.00 be approved, which was seconded by Councilman Dellinger, and unanimously carried.

RESOLUTION CALLING ON MEMBERS OF THE FIRE DEPARTMENT WITH GRIEVANCES RELATIVE TO OPERATION OF DEPARTMENT TO PRESENT THEM IN WRITING OVER THEIR SIGNATURES TO CITY MANAGER NOT LATER THAN DECEMBER 29TH, ADOPTED.

Captain Leo Black, Charlotte Fire Department, appeared before Council and presented the Mayor and Council with a paper bearing the signatures of approximately 200 of the personnel of the Department expressing their complete confidence in Chief Donald S. Charles.

Councilman Smith asked that a typed list of the signatures be furnished the Council members.

Mayor Brookshire thanked Captain Black for bringing the petition to the Council and then recognized Councilman Dellinger who wished to make a statement.

Councilman Dellinger stated this is a most unusual procedure. We have a group of men here today appearing in behalf of a man against whom no charges have been officially filed. That this matter has been in the press and on the radio & T.V., and he believes the Council should now try to learn the facts. He asked the Clerk to read a resolution, copies of which he had previously given each Council member, after which he would move its adoption.

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The following resolution was read by the Clerk:

WHEREAS, there have been persistent rumors through the local News Media that a number of members of the Charlotte Fire Department did hold two meetings and agreed to employ legal counsel to make a study of the morale of the Charlotte Fire Department, and

WHEREAS, this Council under the City Charter is charged with the duty and responsibility of the supervision and operation of all departments of the City of Charlotte through the City Manager, and to that end is empowered and authorized to study the operation of any department of the City of Charlotte when deemed necessary, and/or advisable, and for that purpose is granted the authority to subpoena witnesses, administer oaths, etc.

Now that there are reports indicating unsatisfactory conditions in the Fire Department which, in our opinion, require study by this Council in accordance with our City Charter Provisions, we therefore offer the following resolution:

NOW, THEREFORE, BE IT RESOLVED THAT, this Council call upon members of the Fire Department who have any grievances with Chief Donald Charles in the operation of this Department, to reduce such grievances to writing and present them over their signatures to the City Manager not later than _____, to be presented by him to the Mayor and this Council.

That a certified copy of this resolution be delivered by the City Manager in person to Mr. J. E. Long, and the group's attorney, Mr. John Warren.

Councilman Dellinger stated the date by which the Group must file the statement was omitted in the Resolution and he would like the Council to fix a date agreeable to them before proceeding further. Following the discussion in which Councilman Whittington suggested December 29th, Councilman Smith, January 3rd and Councilman Thrower, January 2nd, it was decided that December 29th was acceptable, and Councilman Dellinger moved the adoption of the Resolution with December 29th included.

Councilman Bryant stated he does not mean to obstruct the resolution in any way, however, he is doubtful that dealing with an anonymous group in this manner will bring results. That it seems to him there are other channels the Council could go through; however, if the Council wishes to handle the matter in this manner he will go along but he hates to establish a pattern of dealing with any anonymous group who has not identified itself.

Councilman Dellinger stated the individuals referred to in the resolution are reportedly and admittedly the people to whom the resolution should be directed and he thinks that rightfully the City Manager is responsible to the Council and should be the liaison man between the Council and any group who operates in the City of Charlotte, and he thinks the City Manager will handle any matter the Council asked him to.

The vote was taken on the motion for the adoption of the resolution, and unanimously carried.

Mayor Brookshire asked if anyone wished to further comment on the matter, and Mr. John P. Warren stated he has been retained as Counsel by a Group to represent them in looking into matters pertaining to the Fire Department; that there have been no charges drawn, no list made, no acquisitions made and there will be none. That they do not plan to make any charges against

any one and they didn't start with that in mind. Therefore, the date in the resolution adopted by Council is immaterial as far as they are concerned. As to the other group, so as to speak, he does not know, that they have brought in an endorsement signed by some 200 firemen which is a very fine and wonderful thing, and whether they want to do anything with the date fixed by Council, he does not know. That he is here to do one thing and that is to clarify the position of the group he represents, since there has been so much said about so little. That he was retained as Counsel to look into the matter and do what he thought best, and that was to have a friendly discussion with Chief Charles, at which time Chief told him he had been planning to retire and that Mr. Warren would learn about it within a few days. That he left Chief's office and all of the rest he has read in the newspaper; therefore, the Council probably knows much more about this than he does; however, his group does not have a list, has prepared no list of charges or complaints or anything else; all that was done was one friendly chat with the Chief, which he thoroughly enjoyed.

Mr. Veeder asked Mr. Warren who his clients are? Mr. Warren replied that he cannot tell him, that an attorney's client relationship is something he cannot divulge unless his clients ask that it be done, and he does not have that permission.

Councilman Dellinger stated there has been too much in the press and radio and TV for the Council to drop the matter. If Mr. Warren's clients do not have any charges, or if they do not want to press any charges, then he is of the opinion they should come to the Council and say a mistake was made and offer their apologies to the Council and to the Chief of the Fire Department.

Mr. Warren stated he wishes to make this clear to Mr. Dellinger, that they did not come to the Council with any complaints and they owe no one any apologies for what they have done. That someone else, he thinks, may owe an apology but his clients have talked to no newspaper, made no complaint to anybody about anything and the only reason he is here today is to make it clear that they did not. If there is anything they can do to help Mr. Dellinger to find out or work with him in any way, they will be delighted to do so, but they have done nothing for which an apology should be made. Councilman Dellinger asked if he were hired by a Group to do nothing, and Mr. Warren replied, No sir. The Mayor called attention that Mr. Warren stated he didn't want to disclose the persons who came to him. Councilman Bryant stated that very thing demonstrates the reason he hates to deal with any Group and not know with whom one is dealing. That it seems to him the Council needs to approach this matter from a different point of view, that Mr. Warren says there are no charges and will be none, then Council needs another type of resolution that will ask for a complete inquiry into the whole situation in the Fire Department. Councilman Dellinger stated he has no idea of withdrawing his resolution and he thinks the City Manager should continue to make a study of this thing with any help that the Council might think he needs. Councilman Bryant stated the resolution has gone for naught if Mr. Warren is correct. Councilman Albea asked Councilman Bryant what procedure he would follow other than that provided for in the resolution and Councilman Bryant stated he would like to ask for an inquiry into the problems of the Fire Department and the Council could determine if the City Manager is the proper individual to direct the inquiry, that he just wants to make sure that the Council does not drop the matter at this point just because they do not get charges within the next 48 hours. Councilman Dellinger stated he would like to have a report from Mr. Veeder on the resolution, and thinks the Council should know who has retained Mr. Warren to instigate rumors in the Fire Department; that he certainly thinks that as far reaching as the effects of this could be, the Council ought to find out more about it than they know now.

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Mr. Warren told Councilman Dellinger he hopes he will not misquote what he is saying, that Councilman Dellinger has said "he was hired to instigate rumors" and they have certainly not instigated any rumors whatsoever. That if Councilman Dellinger wants to know where it all came from, he can probably find out, but they have no charges and no complaints and he wants to clarify that and to again say that none will be received from his group. Councilman Dellinger told Mr. Warren there have been a lot of rumors and one rumor was that Mr Warren said two Councilmen were the instigators of this matter, and he resents that remark. That anyone who says he had anything to do with it is telling less than half the truth and that Mr. Warren is the man who said it. Mr. Warren denied that he has said anything of the kind.

Councilman Bryant commented that it must have been an awfully pleasant and friendly conversation between Mr. Warren and Chief to have resulted in a man retiring.

CONSIDERATION OF BID PROPOSALS ON WORKMEN'S COMPENSATION INSURANCE.

Mr. Fred McPhail, Chairman of the City's Insurance Advisory Committee, stated he is present primarily because of a misunderstanding which seems to have developed in connection with the proposals for workman's compensation insurance submitted at the last meeting, and to give a brief background. That the City's insurance protection has been handled for many years by Insurance Agents in their combined role as the Stock Association's Agents and Regional Association's Agents. That in 1960 an exhaustive study was made by these bodies of the City's insurance protection, with particular emphasis on Workmen's Compensation, which has been on a self-insured basis for many years. That upon completion of the study, they recommended that the City's Workmen's Compensation Insurance be converted to commercial insurance at the first opportunity, and they made a study of the factors and estimated the cost of it. That the Committee's recommendation, he understands, was referred by the Council to Mr. Earle, Personnel Manager, and he was asked to receive proposals from those companies, or groups or agents who were interested and bring their proposals back to the Council, and because of the highly complicated nature of the insurance, Mr Earle called on the Advisory Committee to assist him with the preparation of the specifications, and they gladly furnished one of their experienced agents to assist him. That proposals were received on December 8th and the Agents submitted a proposal in the Travelers Insurance Company on December 7th, a day ahead of the deadline as they understood Mr. Earle would be away the next day. That the Advisory Committee heard no more about the matter until noon the 18th; then some eleven days elapsed and they knew nothing about it, whether there was another proposal other than the one they had seen submitted in the Travelers. That at the eleventh hour the Committee was asked for their opinion of Mr Earle's recommendation and they did not know there was a recommendation; so they got a thumbnail sketch of it in a hurry and realized that the second bid was not quite in accordance with the specifications and they asked for time to look at the two bids. He stated the specifications contained a requirement that in the retrospective rating plan all proposals come up with some uniform factors so they could be compared; the first factor was a maximum, or ceiling, on the premiums of 140% of the standard premium; that the second figure that came in showed a ceiling of 119% and that did not seem to them to be in conformity with the specifications and that is why they asked for the opportunity of seeing it. He stated they think Mr Earle didn't realize it, because he knows of no other reason he didn't ask anybody about it, but here were two dissimilar factors. That in the complicated formula for retrospective rating, they assume one constant, and that is for comparative purposes, they assumed that in three years time the losses of the City would be \$40,000. That the Travelers premium that would be developed under those conditions would have a 3-year cost of \$178,911, the American

Mutual, the second proposal, showed a 3-year cost of \$167,986, which on the surface appears to be some \$11,000 lower. He stated that during the Christmas week, they worked on the matter, trying to analyze the two proposals and get them on a common basis. That it appears to them that the 119%, being exactly 15% less than 140% called for, included in advance a 15% dividend or a 15% deviation on credits in some sort in advance, and they did not think it was possible or permissible under the N. C. Statutes to quote rates and premiums on that basis in advance if the dividends are earned at the end of a period as it cannot be guaranteed, but they felt for the City's benefit they should ask the Commissioner of Insurance whether that could be done. That the Commissioner replied in part - "your ask is it legal in N. C. for a dividend paying company to include the dividend in advance on a retrospective Plan D coverage? In answer I quote from General Statutes 58-97 'neither the payment of dividends nor the rate thereon may be guaranteed by any company or organization prior to the declaration of the dividend by the Board of Directors of said Company', and the statute is interpreted to mean that a Company cannot allow any form of dividend in the rate quotation to a policy holder at the inception date of the policy." Mr. McPhail stated it appeared to them that the proposal received was more of an illustration of what a net cost might be expected to be after a dividend of some 3 years hence than it was a firm quote now because the Statutes do not permit such a firm quote. Therefore, if that is the case, the Committee would suggest that Column 2 should be revised and the 119% changed to 140% and go back to our original basis of comparison and the premiums which were shown as \$167,986 would then become \$197,632, as opposed to the Travelers figure of \$178,911.

Mr. McPhail stated to the Committee this points out the fallacy of taking bids on a matter which is a professional service and involves a world of technical details; that brick and wheel barrels etc can be bought on bid because they are uniform, but this type of business does not lend itself to bids because of the very things that have just been illustrated. Difficulty of writing proposals and extreme difficulty of comparing two sets of figures appear very simple on paper but require countless hours to analyze.

He stated the choice the Council has to make, as it appears to the Committee, is whether to continue to do business through the Agents now serving the city, and there are some 70 Agencies involved in Charlotte and the Companies they represent, with all the experience and best minds and years of background they represent. That after screening the various companies, they recommend Travelers to be the one they find best able to handle the City's insurance affairs all across the board, from bonds to automobile to workmen's compensation, to liability, and it will mean staying with the Agency System. That for the Council to depart from the Agency System, turn the City's back on the agency way of doing business and to abandon the system and do business with an insurance company which has no agency but which deals directly through its employed representatives puts the City's personnel in the role that the Agency has played for many years. He stated they do not want any medals for what they do but it took some 400 man hours of the best people in the business to make the 1960 survey and study of the City's workmen's compensation insurance; too, they perform other functions for the city and one of the Association's represented by the Agents spent a year ago some \$3,000 to \$4,000 to send one of the City's Police Lieutenants to a year of Graduate School; that this was a public service and the funds used came from commissions on public issues.

Mr. McPhail stated to go back to the premiums, if the \$197,632 premiums that they have computed is correct under the American Mutual's Statutory Factors, and if their dividends ratio remains at 15% in 3 years hence, their net cost would be \$167,986, which was shown as a cost in the first place. This

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figure appears to be right after the dividend, which of course has to be earned. If this is the case, the 3 year difference in the two plans is \$10,925 or \$3,600 roughly per year, which could be spent as a salary for a secretary for one year. He stated the position of the City's Insurance Advisory Committee is, that to depart from the Agency Way of handling the City's insurance for a figure like that is to pose a burden on the city personnel, which cannot be measured in terms of \$3,600 and the services of the Agent and the skill and years of experience that are now available, and not at an extra cost, cannot be replaced by city personnel who would be new to insurance.

Councilman Bryant moved that the Workmen's Compensation Insurance be placed with Travelers Insurance Company on the guaranteed plan for two reasons, one is that undoubtedly there is going to need to be more study given as to which plan we wish, the Agency Plan or otherwise, and also the fact that we have in our budget funds to employ a safety man who might help to improve our insurance problems or records this year, which would be helpful to us in the retrospective plan that they also bid on.

Mayor Brookshire asked that before a second is made to Councilman Bryant's motion, a representative of the American Mutual Company be given an opportunity to speak if he wishes to do so, in order that both sides of the question may be heard.

Mr. Randolph Hope, District Sales Manager for American Mutual Liability Company in charge of operations in North and South Carolina, stated there is apparently quite a bit of misunderstanding as to what they proposed and are willing to do. That they have tried to come up with what they thought was the best net cost proposition for the City. That he wishes to point out in the beginning that for many years they have handled business for such Charlotte firms as Lance, Charlotte Pipe and Foundry Company, Southern Engineering, etc. and they have seen their method of operation and he does not think they would have remained with his company had they not been entirely satisfied. Mr. Hope stated further theirs was the first Company in the United States to write Workmen's Compensation insurance; that their Company was founded in 1887 and since then they have never paid less than 15% dividend. That Lords of London are so confident that the Company will continue to pay their dividend, they are ready to provide to the City of Charlotte, or any other customer, a policy guaranteeing that if American Mutual does not pay the dividend, they themselves will pay the dividend to the City of Charlotte.

Mayor Brookshire asked at how much cost? Mr. Hope replied at a nominal cost of probably \$50 to \$100 just for the cost of writing the policy.

Mr. Hope continued and stated the Stock Companies do not like to admit that the dividends exist because they have not way to compete with it, it simply reduces the net cost. That if one will look around in Charlotte they will find there are very few large manufacturing companies today that are not insured with a direct writing firm - that both Belk Dept. Store and Ivey's are insured with a similar direct writing company. They are so insured because they know the net cost is lower. That all Mutual Companies always quote the dividend situation as American Mutual showed it in their quote, net cost, because on retrospective you don't adjust until the end of the policy year. Actually, your first adjustment on retrospective plan cannot even be filed with the National Council, or the N. C. Rating Bureau until 6 months after the policy has expired. The dividend is paid at the end of the policy year on the earned premium, its paid at the audit. That the cost they have, while it was at a certain loss level, was only \$11,000 difference, at \$40,000 losses, the maximum that the City could pay on a 3 year period under the Travelers plan at 140% maximum would have been about

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\$42,000 in excess of what the City would pay with American Mutual, Now, certainly that does include the dividend. Building & Loan Companies advertise a dividend and to say that a dividend may not be paid is wrong, that no one has any assurance there will be a world 3 years hence but they feel confident and are willing to provide the City with a policy that will guarantee a dividend.

Councilman Bryant asked if the 15% was reflected in American Mutual bid? Mr. Hope replied the 15% dividend was shown in their proposal net cost, factors and net cost does take into consideration the dividend. Councilman Bryant asked if that is in accordance with the State laws? Mr. Hope replied they have been doing business in North Carolina since 1916 or 1917: they have quoted and so have all the other Mutual Companies on a net cost basis for all that time. They say an insurance company cannot in writing say to anyone they guarantee to pay X number of dollars at the end of the year, but by the same token the Companies can quote net cost factors and they always have. That their quotation did in no way violate any of the laws of the State of North Carolina.

Councilman Whittington asked Mr. Hope if his figures are not an assumption instead of factual? Mr. Hope replied all retrospective figures are assumptions. He explained basically how retrospective would work, that to start with everyone has to charge on Workmen's Compensation the same dollar per \$100 a payroll, so at the end of the year you have an audit - that is called your standard premium, and it is the standard premium on which the Company pays the dividend. That the retrospective factors that are in the policy, whether its Travelers, American Mutual or some other Company, are just put in there for no purpose until the first adjustment is made.

Mayor Brookshire asked if their invoice would be at those net figures or would it be at the \$197,000 figure approximate for 3 years? Mr Hope replied the City would be given the dividend credit on the invoice, that the dividend is a portion of the premium that you never pay.

Mr. Hope further stated no matter how the situation is sized up, they are going to write the insurance at a lower net cost and whether its dividend or not does not make much difference, that in the final analysis the number of tax payers dollars that will be paid out is the thing that counts. He stated they have in their Charlotte office three experienced engineers who work with the City on safety, and they have five experienced claim men in the Charlotte office, in fact all of the business is handled here in the Charlotte office.

Mayor Brookshire asked if this included service? Mr. Hope replied everything is handled right here in the Charlotte office. He suggested that Mr. Frank Dowd and Mr. Phil Van Every be called and asked about their connection with American Mutual.

Mr. Hope stated further there is one other thing his Company is willing to do; if they take over the City's business January 1st they are willing to handle all claims now outstanding at no cost to the City, provided the City will issue a draft to cover the payment for the claim. He stated he understand there are a number of outstanding claims and they will move the files over to their office and investigate and follow the claims to a complete conclusion advising whoever makes the payments at City Hall the amounts that should be paid and file the papers in Raleigh to close the case.

Mr. Jerry Tuttle, member of the City's Insurance Advisory Committee, asked Mr. Hope if the dividend is credited on the invoice, credited in advance on the first invoice? Mr. Hope replied not on the first invoice. The method

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of operation that his Company uses is to take a small policy premium, let them pay it monthly, quarterly or in any amount they see fit and at the end of the year come up with the audit and at the time of the audit is the time the dividend is allowed. That most of the accounts of any size today underestimate the payroll so that they do not have a large amount of money tied up, so when the audit is made the dividend is then applied. Mr. Tuttle asked if Mr. Hope's Company would bill for the \$197,000, and the dividend credit will follow, if any? Mr. Hope replied that is not correct, that the dividend will be applied at the end of the policy year. The retrospective adjustment, that is the \$197,000 you are talking about, will not be - that will be some 3 years hence. Mr. Tuttle asked if the dividend will be credited on the first policy year, the first invoice? Mr. Hope asked if he means on the advance premium? Mr. Tuttle stated yes, the advance premium invoice. Mr. Hope stated the dividend will not be credited until the policy expires. Mr. Tuttle thanked Mr. Hope and stated that is all he wanted to know.

Councilman Whittington seconded the motion by Councilman Bryant that the Workmen's Compensation Insurance be placed with Travelers Insurance Company et cetera.

Councilman Thrower offered a substitute motion to delay action on the matter until next week so that it may be looked into further. The motion was seconded by Councilman Albea.

Mayor Brookshire asked Mr. Earle, Personnel Director, if he would like to speak on the subject.

Mr. Earle stated there are some advantages to the City of having our policy go into effect concurrent with the calendar year January 1st, from the standpoint of our rating and the changeover from a self insured to an insured basis. The advantages, however, are not dollar-wise but are from the standpoint of the record keeping involved and the ratings that are issued periodically by the Rating Bureau. He stated he does not think that he has anything more to add to his remarks of a week ago last Monday.

Councilman Bryant stated he would like to say again in connection with why he made the motion as he did, that he is referring not to the retrospective bid but to the guaranteed bid, which he recommends that the Council take for a year, which will give us a guaranteed proposition in time to work on our safety record, and then at the end of that the Council can have had plenty of time to make themselves acquainted with a very complicated subject, but the City is protected and can work on any retrospective proposition at the end of the year, and that is the main reason he made the motion as he did.

Councilman Dellinger asked that Mr. Earle repeat his statement, that he wasn't interested in the dollar value of it or something. Mr. Earle stated he did not say he was not interested in the dollar value. What he said was that the effective date of the insurance would not necessarily affect the cost of the insurance; that there would be some advantages from the standpoint of record keeping to have the policy concurrent with the calendar year - that is the record keeping both in the City's departments plus the N. C. Rating Bureau and the Insurance Carrier itself.

Councilman Smith stated it is true a number of the larger companies do use a direct insurance company to cover Workmen's Compensation, and in a number of cases he thinks it is also true they employ an insurance representative on their payroll, a man that makes from \$10,000 to \$20,000 in large companies. In the past years the City has used this commission to do this work instead of a salaried employee; that it is probably true that American could save

the City approximately \$4,000 to \$5,000 a year, the amount would have to be verified at the end of the year. However, he thinks the way to the system is that we have been working under, the Agency System that is, that the City has been able to get the best insurance advise in the City without having a man on our payroll. Therefore, he thinks his vote is going to be influenced by this terrific savings that has already been accomplished through the Agency System and that his vote would be for Travelers.

Mayor Brookshire asked what cost there would be attached to the City if Travelers is given this business for old liabilities that are presently pending or may come to our attention? Mr. Hope, American Mutual representative, explained his previous remarks on the subject, stating they could do either, that it would in fact be a little easier for the City to continue having the claims since the records in Raleigh under the present coverage are filed as a self-insured; in fact, what he had reference to was the investigation of those accidents that may happen today or tomorrow or in the future, as well as the disability checkups on previously injured city employees, getting them to the doctors, filing the reports in Raleigh and the necessary details and processing of the claims. However, that does bring up a coverage question since American would be making payments for compensation for a period that they were not on the risk.

Mr. Hope asked to be permitted to make another statement, if the Council is interested in a net cost basis, their guaranteed cost is going to be considerable more of a savings than \$3,000 or \$4,000, he thinks it would be nearer \$7,000 on a guaranteed basis. That if the Council is thinking in terms of going to guaranteed cost for one year, they will furnish the City a policy from Lords of London at no cost to you, guaranteeing you that you will receive the 15% dividend. That on \$70,000 estimated premiums, their net cost will be \$56,083, which is a considerable difference than the \$3,000 or \$4,000 under retrospective with \$40,000 in losses.

Councilman Dellinger asked if he discussed this with the Insurance Committee? And Mr. Hope replied they have not been before the Insurance Committee.

Mr. David Speed, an Underwriter of Travelers Insurance Company, stated he is not in position to speak for their Claims Department as to whether or not they will assume the cost of handling compensation claims which have already occurred. He would not like to say either way, but he believes that his Company would do so as this is generally done; however, if the Council wants an answer he will give it to them immediately within 24 hours.

Councilman Dellinger asked Mr. Earle if he has not changed his recommendation as he had made a recommendation that the Council accept the American Mutual. Mr. Earle replied that he has not changed his recommendation one bit. That in his presentation to Council a week ago Monday, he pointed out that he had made a recommendation, and he presented the Insurance Advisory Committee's recommendation to Council. That the Council asked him then to go out and seek competitive bid proposals on this insurance which he has done. That he has resubmitted a second recommendation based upon cost. He stated he does not think there is any question that the City can do business cheaper for this Workmen's Compensation Insurance with the American Mutual Company as opposed to Travelers. That the City has bids from two first-class companies, one a direct writing mutual and the other a stock company. That he also pointed out a week ago Monday that the real choice to be made by Council was whether to continue the Agency system or to secure their insurance on a competitive basis. This is not to say that the Insurance Advisory Committee has not done a great deal of work on this, because as a matter of fact, it is through their efforts that we are at this point. Mr. Earle stated he is simply basing the recommendation on cost alone. That the City cannot go wrong whichever Company they take, its a policy decision which must be made by Council as to what we are going to do from this point on.

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Councilman Whittington asked Councilman Bryant why he asked for the one year, and Councilman Bryant replied mainly because the employment of a safety man was planned in the current budget, which should considerably improve the City's record over the next year and would make it more favorable if it should be decided to go to the retrospective plan for 3 years after this year. Councilman Whittington stated he thinks 3 years would give a truer picture than one.

Councilman Dellinger asked how much is involved in picking up the accounts the City has now; that Travelers says he doesn't know whether he can do it. Mr. Earle stated they have checked on the number of claims being processed two or three months back, and they were in excess of 300; that there is a heavy current work load involved and the City is not in a position to give the claims the proper follow up now; that it has been considered making arrangements for taking over these unsettled claims by whichever Carrier the business was placed with; that the American proposal was very generous when they say they will take them over with no cost to the City other than the actual claim. Councilman Bryant pointed out this was not called for in the bids; that it was a voluntary thing on American's part and it would be highly unfair, in his opinion, to base a decision upon that if the other Carrier has not had the same opportunity.

Mr. Speed stated he would like to reiterate that they do not think that American Mutual can actually issue a policy and show these retrospective factors in their policy. That they have shown these factors based on an assumed amount of loss and they would like to make it clear to the Council that they cannot actually issue a policy on the basis of these factors, whereas the Travelers factors will be shown and the actual policy issued to the City. He asked the American Mutual representative whether or not these actual factors as shown in the comparison will be shown in the retrospective endorsement of the policy? Mr. Hope replied that the factors that are shown in the policy have no relationship to the actual adjustment that's made in any way. That the factors are a guide that are used based on the amount of premium; that in the policy you will see 50% premium a factor, 100% premium a factor and 150% premium a factor. That none of these factors will apply, nor will any charges be made with either the Travelers factors or with their factors until 6 months after the policy expires, by which time the City has already received the 15% dividend based on the standard premium that is computed at the end of the policy year. So, you have received the dividend before any of the factors apply.

Mayor Brookshire stated he believes both representatives will agree that a policy in either company will give the City the protection needed and the only question is service and price.

Councilman Whittington stated that he seconded Councilman Bryant's motion originally and he thinks the Committee appointed by the City who has worked long and hard over a two year period to bring up recommendations about what insurance the City should have, certainly should be considered. That these recommendations are based on 80 local insurance writers and coverage, and for that reason he is going to vote for the motion that was originally made that the City accept insurance offered by Travelers, and he feels the matter has been discussed sufficiently.

Councilman Albea asked what was going to be done about the recommendation our own man, Mr. Earle brought in, was it to be just thrown away? Councilman Whittington stated Mr Earle brought in Travelers originally and then he brought in the other Company, based on cost without service consideration. Mr. Earle stated that is not correct, that his recommendation takes into account the service consideration. That the second recommendation is based on consideration of service plus cost, and his first recommendation was an

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endorsement of the Insurance Advisory Committee's recommendation that we accept a guaranteed cost plan from Travelers; that is without considering anything else. That from the City's standpoint he believes we can get the job done with either Company as far as Workmen's Compensation is concerned. He stated his recommendation for American Mutual, the retrospective Plan D is the one that he will stick to. That if Travelers is considered he would recommend that the City go to a guaranteed cost plan for the first year. Therefore, both his recommendations, in effect, are before the Council right at this moment.

Mayor Brookshire called for a vote on the substitute motion by Councilman Thrower to delay the matter for another week, and the motion lost by the following recorded vote:

YEAS: Councilmen Thrower and Dellinger.

NAYS: Councilmen Albea, Bryant, Smith and Whittington.

Councilman Jordan abstained from voting and stated it is because he is in the insurance business and would prefer not to vote on the question.

Mayor Brookshire then called for a vote on the original motion by Councilman Bryant to place the business with Travelers on a one year guarantee.

Councilman Smith asked that before the vote is taken, Councilman Bryant's position on this one year plan be clarified. He called Councilman Bryant's attention to the possibility that the City will pay more for the insurance the second year if our experience is not good. Councilman Bryant replied that employing a safety man should improve it during the coming year. Councilman Smith stated that experience shows that in the past our premium has increased every year, and more people have been employed, which means more risks. That here is an Insurance Company offering the City a 3 year guaranteed plan, and he asked why it should be assumed that the City can improve that in one year's time? Councilman Bryant stated he feels that very likely our self-insured plan has left a lot to be desired and there has been a lot of money expended that was not necessarily needed to be if it was done by experts in the field. Councilman Smith stated he would like to ask Mr. McPhail to express his opinion as a representative of the Insurance Committee as to one year or three years. Mr. McPhail stated he does not have a firm recommendation between the two. That the Committee's primary recommendation is to get insurance and get out of the self-insured plan and he would add, do so by January 1st because your entire rating, factors and everything are on a calendar year. Councilman Smith then asked Mr. McPhail if he does not have an opinion from the Committee on the question, what his personal preference would be were he buying the insurance for himself? Mr. McPhail stated if he were buying it for himself and had the offer of \$200,000 premium for 3 years, he would buy a 3 year retrospective rating plan because of the possibilities of the savings he could effect for himself. Councilman Dellinger expressed the opinion if your experience is good the first year, it would be just as cheap one year as 3 years, but if your experience is bad, it would be worse. Mr. McPhail stated that is correct, with the 3 year plan if you should have a bad year, you still have two years of profitable experience to help wipe it out. He stated he actually does lean toward a 3 year retrospective plan but he is much more interested that the City buy insurance than in the details. Councilman Smith stated the only thing he is trying to do is to show that he is willing to vote with the Council if they will vote for the 3 year plan.

Councilman Whittington asked Councilman Bryant if he would consider amending his motion to the 3 year plan instead of one year? Councilman Bryant asked Mr. McPhail if a good year was had the first year, wouldn't the retrospective plan be more appealing next year than this year? Mr. McPhail replied No, because the immediate past year is not considered. It goes back one entire

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year and then 3 years prior to that, so the immediate past year is not considered in a current year, it picks up later.

Councilman Bryant asked if he might amend his motion to 3 years retrospective, and no objections were expressed and the change was acceptable to Councilman Whittington who had seconded the motion. Mayor Brookshire called for a vote on the original motion as amended, and the following recorded vote resulted in a tied vote:

YEAS: Councilmen Bryant, Whittington and Smith.
NAYS: Councilmen Albea, Dellinger and Thrower.
Councilman Jordan abstaining from voting.

Mayor Brookshire stated there is an even split here among the Council and he thinks there is a possibility they can agree on the question, that he would rather see the Council get together on it. Therefore, he is voting against the motion, which will leave the matter wide open and we are right where we started. The motion was therefore lost.

Councilman Thrower stated he is not voting against anything, that he just does not understand the question sufficiently. Councilman Dellinger stated he is voting against the motion solely on the basis that he is not satisfied that we are saving any money or enough money at this time; that he does not think the Council has looked into the insurance problem far enough to know exactly what we are doing. Councilman Albea stated he is in exactly the same position. Councilman Bryant stated this is just exactly the reason he made his original motion to read one year in spite of the fact that it might cost the City money and he felt that if the Council had one year to go along on and then do what they could about effecting a savings the next year, it would give everybody an opportunity to get settled on it since this is a brand new thing with the City.

Councilman Thrower asked Mr. McPhail why it is so important that the City have the insurance start the first of the year? Mr. McPhail advised that insurance wise, the rating period begins and is related to the acceptance date of the policy; that January 1st is the policy date and July 1st the rating period. That City wise and Accounting wise, the premium is based on payrolls and if you started a policy say February 7th, you would have an odd lot of accounting to do, and your audit is complicated also. Councilman Dellinger stated city business is on a fiscal year basis July 1st to June 30th, so why could the insurance not be put on the same, that it is the date of the policy that counts. Mr. Earle stated it is his impression that the State regulations insist upon a calendar year basis.

Councilman Smith moved that the insurance be given Travelers on a one year basis. The motion was seconded by Councilman Bryant. Councilman Dellinger expressed objections to voting on the question again, and feels he is entitled to get more information on the matter, as previously stated. Councilman Smith then withdrew his motion, but pointed out that he thinks it is essential that a decision be made, right or wrong, before the first of the year as recommended by the Insurance Advisory Committee.

Mayor Brookshire stated the matter will then be held over until the next meeting.

ACTION ON DECEMBER 11TH RESCINDED RELATIVE TO PAYMENT TO CLERK OF SUPERIOR COURT IN ACCEPTANCE OF COMMISSIONERS' REPORT OF DAMAGES TO PROPERTY FOR RIGHT-OF-WAY FOR EAST 5TH AND EAST 6TH STREET CONNECTORS, AND MOTION TO NON-SUIT APPROVED AND PAYMENT AUTHORIZED TO PROPERTY OWNERS.

Upon motion of Councilman Albea, seconded by Councilman Whittington, and

unanimously carried, Council action on December 11th was rescinded relative to the payment of \$13,500.00 to the Clerk of Mecklenburg County Superior Court in acceptance of the Commissioners Report of Damages to property for right of way on East 5th and East 6th Street Connectors, and approval was given the motion of Non-Suit and payment of \$13,500.00 was authorized to William P. Allan, J. Louis Carter, Trustee and Mutual Savings and Loan Association for the said right of way.

TRANSFER OF CEMETERY LOT.

Councilman Dellinger moved that the Mayor and City Clerk be authorized to execute a deed with Mr. Campbell W. Ansley for the transfer of Grave #6, Lot 16, and Grave #4, Lot 17, both in Section 3, Evergreen Cemetery, at \$120.00. The motion was seconded by Councilman Jordan, and unanimously carried.

CONTRACT AWARDED HERSEY SPARLING METER COMPANY FOR WATER METER.

Motion was made by Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, awarding contract to the only bidder, Hersey Sparling Meter Company, for One, 6" Water Meter, as specified, at their bid price of \$1,470.45.

CITY MANAGER REQUESTED TO MAKE PROGRESS REPORT ON ACQUISITION OF RIGHTS OF WAY FOR KENILWORTH AVENUE, EAST 5TH AND EAST 6TH STREET CONNECTORS AND THE WEST SIDE GRADE CROSSING.

Councilman Whittington requested the City Manager to give Council a progress report at the next meeting on the acquisition of rights of way for Kenilworth Avenue, East 5th and East 6th Street Connectors and the West Side Grade Elimination program, and to also advise how soon construction can begin.

COUNTY COMMISSIONERS INVITED TO MEET WITH COUNCIL ON JANUARY 8TH FOR DISCUSSION OF TRAFFIC COURT OR SHIFTING PART OF THE WORK LOAD FROM THE CITY'S RECORDERS COURT TO THE COUNTY'S COURT.

Councilman Whittington stated he had noted in the newspaper that the Mayor and the Committee from the Bar Association met with the County Commissioners in regard to shifting part of the work load of the two Recorder's Courts. That in a discussion of the matter with one of the County Commissioners, he was led to believe the Commissioners were receptive to the idea and suggested that a Committee from both Bodies study this and bring recommendations back to their respective Body for adoption rather than both Bodies starting off anew. That in his discussion, the Commissioner stated he thought this would expedite the matter; therefore he would like to recommend this to Mayor Brookshire, realizing the importance of deciding without delay on the question, and a recommendation would also help the Council decide which is the best thing to do. Councilman Albea expressed objections to being governed by a Committee, and stated he would prefer the Council having its own discussion. Councilman Whittington pointed out the Council would, of course, act on whatever the Committee recommended, and thereby do its own deciding in the long run.

Mayor Brookshire stated that the same report that was given Council by the

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Bar Association was also given the County Commissioners; that he invited the Commissioners to meet with the Council and discuss the matter further. That there was a very good reception to his appearance and suggestion, and he believes in this way the two Bodies can reach an agreement as a group. He stated he invited them to meet with the Council over here two weeks from this past Monday, or that is on January 8th. He asked if there were any objections to having the Commissioners over on January 8th, and none were expressed. Councilman Dellinger suggested that if a new City Solicitor is appointed by that time, maybe he should be given the benefit of some experience in the Court and he be asked for a recommendation.

ACTION APPOINTING RICHARD L. KENNEDY CITY SOLICITOR RESCINDED DUE TO HIS HAVING DECLINED APPOINTMENT.


Councilman Whittington moved that in view of Mr. Richard L. Kennedy having declined appointment to the position of City Solicitor, that Council action on December 18th appointing him be rescinded. The motion was seconded by Councilman Jordan, and unanimously carried.

APPOINTMENT OF WILLIAM H. SCARBOROUGH AS CITY SOLICITOR.

Councilman Smith moved the appointment of Mr. William H. Scarborough as City Solicitor, effective January 1, 1962, at a salary of \$8,000.00 per annum. The motion was seconded by Councilman Dellinger, and unanimously carried.

ADJOURNMENT.

Upon motion of Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, the meeting was adjourned until 3 o'clock p.m., on Wednesday, January 3, 1962.


Lillian R. Hoffman, City Clerk