

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, July 17, 1961, at 2 o'clock p.m., with Mayor Brookshire presiding, and Councilmen Albea, Bryant, Dellinger, Jordan, Smith, Thrower and Whittington present.

ABSENT: None.

Charlotte-Mecklenburg Planning Board members, Mr Sibley, Chairman, Mr. Craig, Mr. Ervin, Mr Jones, Mr Lakey, Mr Turner and Mr. Wilkinson were present during the hearings on petitions for zoning changes.

ABSENT: Mr. Toy.

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INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Jordan, and un-animously carried, the Minutes of the last meeting on July 10th were approved as submitted with two corrections:

Item on Page 437 relative to clearing weeds from railroad right of way was changed to read, "from Park Avenue to the city limits", and on Page 426 the name of the church of which Dr. Fogartie is pastor was changed to "Myers Park Presbyterian Church".

HEARING ON ORDINANCE NO. 34-Z AMENDING THE ZONING ORDINANCE TO CHANGE ZONING FROM R-2 TO B-1 ON PROPERTY AT TUCKASEEGEE ROAD AND GLENWOOD DRIVE, ON PETITION OF P & N RAILWAY ET AL, CONTINUED TO JULY 31st.

The schedule hearing was held on Ordinance No. 34-Z Amending the Zoning Ordinance to amend the Building Zone Map of Charlotte by changing the zoning on property at Tuckaseegee Road and Glenwood Drive, on petition of the P & N Railway Company, et al.

Mr McIntyre, Planning Director, stated the property covers one block and a portion of another fronting on Tuckaseegee Road and extends east and west from Glenwood Avenue along Tuckaseegee Road; is adjoined by residential development and vacant property. That the portion consisting of lots on Tuckaseegee Road is developed residentially with single family houses and duplexes, while across the street are residences and a church and some business establishments.

Mr Ray Mozley stated he has letters from Mr Rogers and Mr Nye, who own adjoining property, stating they have no objections to the rezoning of the property. That Mrs Lyon, who also owns adjoining property, has previously asked the Planning Board to rezone her property for business in the new zoning ordinance. He stated further that many residents of the area signed the petition protesting the rezoning as they feared that Pool Rooms, Dance Halls, etc would come into the neighborhood. Misses Grace and

July 17, 1961
Minute Book 40 - Page 441

Martha Rich, residents of 3512 Tuckaseegee Road, stated they favor the rezoning as their property is no longer desirable for residential use because of the cars and trucks turning off Tuckaseegee Road into Glenwood Avenue, and too, because their property was cut back in the widening of Tuckaseegee Road leaving it on a high terrace. They stated they know the young men who wish to develop a business area and they will not bring anything objectionable into the neighborhood. Mr John A. McRea, Jr., Attorney for the petitioners, stated they will develop the property with nice offices and small business. He called attention that Glenwood Drive is heavy with traffic from an industrial and large business section and the property is no longer suitable for residential use.

Mr. Edward M. Gibson stated that already one-tenth of the adjacent property is zoned for business and no other business is needed; that from Fern Street to Burns Street, the area is entirely residential and they wish to keep it that way and it is unfair to ruin the homes of 65 families to please only the 5 persons wanting the zoning change.

Mr J. C. Ryan, presented a petition signed by 65 home owners of the area on Tuckaseegee Road, Avalon Avenue, Hazel Street, Gaston and Rogers Streets requesting that the residential character of the neighborhood be protected from further encroachment of non-residential usages and the rezoning be denied as they feel the better long range use of the property for the welfare of the neighborhood is continued residential.

HEARING ON ORDINANCE NO. 36-Z AMENDING THE ZONING ORDINANCE TO CHANGE ZONING FROM RURAL TO R-1 ON PROPERTY SOUTHWEST OF PROVIDENCE ROAD, BETWEEN SHARON LANE AND MCMULLEN CREEK, ON PETITION OF J.R. MAULDIN, ET AL.

The public hearing was held on Ordinance No. 36-Z Amending the Zoning Ordinance to amend the Building Zone Map of the Perimeter Area changing zoning from Rural to R-1 on property southwest of Providence Road, between Sharon Lane and McMullen Creek, on petition of J. R. Mauldin, et al.

The Planning Director stated this is a request for an area change, consisting of 262 acres, including Foxcroft Subdivision, Huntington Park, The Cloisters and Greentree Acres, which consists entirely of single family residences and some vacant acreage. That the adjoining properties are developed residentially with single family residences.

Mr Carlton Fleming, Attorney for the petitioners and residents of the surrounding area, stated the 262 acres of property, is located inside the city but under the present Rural zoning can be used for anything from pig farms to Radio Towers and the classification is totally inappropriate. He stated that the one exception to the total residential usage is the proposed Greentree Apartments, which will have 200 units and all cars for it will use one driveway, which will create a traffic hazard; that the property is adjoined by a church on one side with two other churches nearby. That the Planning Board is proposing the highest residential classification, R-15, in the new zoning ordinance, and it is necessary that the R-1 zoning be adopted to protect these valuable properties in the interim from the erection of the proposed apartment building, which will seriously disrupt the long range planning for the area.

He asked that the rezoning to R-1 be affected today, which is permissible under the City Code and because the Council Meeting summer schedule is in effect and there would be a delay of two weeks before action could be taken. He stated the property owners feel they are entitled to this consideration, as the property has been inside the city limits since December

1959 and they are entitled to the R-1 protection. He stated that several petitions for the rezoning have been filed with the Planning Board by the residents. A large delegation of residents supporting the request stood at the request of Mr Fleming.

Mr John S. Cansler, attorney representing Mr Charles Couch, who resides at 3300 Providence Road, stated Mr Couch owns 13 acres of land between Huntington Park and Greentree Acres and joins in the request for the R-1 zoning, and if it is not allowed, then his property will be ruined by the erection of the Apartment and he will be up here and ask for like treatment to develop his property with an apartment building.

Mr Frank McCleneghan, Attorney, stated he is representing Mrs James Brickell and has represented the family for a long while; that she is the owner of property on Providence Road which she leased to the Greentree Corporation to develop and on which they are erecting the apartment building, and the request for a change in zoning is a neighborhood hassle against Mrs Brickell and not a desire for the rezoning of all the property within the 262 acres mentioned. He stated her property is 300 feet by 1,800 feet and it cannot be subdivided because of its size without a street running through it which would take a 60-ft. right of way, therefore the only answer to her developing the property to her best advantage is an apartment building. He stated further that backyards and garbage cans line the 1800 ft. depth from adjacent residences, while the same thing exists from a subdivision at the rear of the property. He stated if the property owners really want the area zoned R-1, then allow it starting at the eastern boundary of Mrs Brickell's property, excluding her property, and let her make the best use of it.

Mr Ray Bradley, Attorney representing Greentree Corp., who is erecting the apartment building, stated his clients have already spent a large sum of money on the project, which is allowable under the present zoning. That Greentree Corp. negotiated with Mrs Brickell to develop her property and entered into an agreement with her whereby she would lease the property and they would construct a garden type apartment and would pay her large sums of money over a long period of time. Plans were presented to the Building Inspector in April, the lease signed with Mrs Brickell and on June 6th, Little Construction Company applied for the building permit, which was granted. That on June 19th, the Council was requested to rezone the area from Rural to R-1 which will deprive the owner of her property rights, which is a most unusual procedure. He stated that Greentree Corp. had, in the meanwhile, spent thousands of dollars on materials, grading, etc. That the property is hemmed in, limiting its usage and it can only be developed by an apartment building. That it is estimated that her property is worth \$50,000 to \$75,000 and under the present plan, she will receive over a period of time, a quarter of a million dollars.

Mr Bradley stated further that on April 18, 1956 the Council adopted a resolution establishing a procedure to be followed with regard to hearings on zoning petitions, whereby the hearing is held before the Council and Planning Board, and a decision is rendered by Council at a subsequent meeting after consideration of the evidence heard and the recommendation of the Planning Board is received. He stated they feel since an overall zoning ordinance is underway for the city, which will include this property, that it would be the normal thing to wait and consider any rezoning at that time. He asked for Council consideration of the effect that a change to R-1 would have on Mrs Brickell and on his client.

Councilman Dellinger asked if Mr Bradley is opposing Council rendering a decision today? Mr Bradley stated they think Council should follow their

July 17, 1961
Minute Book 40 - Page 443

normal procedure. Councilman Dellinger then stated he talked with a member of Mr Bradley's firm and his comments and Mr Bradley's do not concide.

Mr Franklin Brown, 2452 Sharon Lane, stated he talked with Mrs Brickell in January about buying or leasing her land to construct a large apartment house, costing around \$2,000,000, but her negotiations with Mr Burke, of Greentree Corp. were more profitable to her and he told her she should take the best proposition she could get.

Mr S. S. McNinch, Jr. stated he has resided on Sharon Lane for 25 years and he is interested in what is best for Mrs Brickell, as she and her husband moved into the area about the time he did, and they have been friends for a long, long time and Mr. Brickell did a great deal for the county. That he feels if anyone is at fault, it is the Zoning Board as it should have rezoned the property when it was taken into the city. However, he thinks it now takes on a legal aspect, as Mrs Brickell went into the lease in good faith, with a bone fide lease, entirely permissible under the zoning of the area, and the rezoning will not affect him nor persons in The Cloisters. He asked the Council to study the situation and not rush into making a decision today.

Mr Bill Little of Little Construction Company stated they have a contract to construct the apartment and have started work. That the Council is familiar with all of the dealings in getting the building permit - granted one day, off the next, all because of rather unusual technicalities. That they have spent something over \$50,000 of Greentree money and think this should be considered carefully. That if the change in the zoning is granted, it will be simply spot zoning.

Mayor Brookshire asked if Mr Little has not worked at great haste on the project? Mr Little replied they have been forced into working fast because the building permit was held up, and had it been given them at first, they would not have had to rush to give the project the advantage of good weather.

Mayor Brookshire then asked Mr Little if it is not rather unusual to take advantage of Rural zoning in an incorporated area? Mr Little replied it was entirely legal.

HEARING ON ORDINANCE NO. 38-Z AMENDING THE ZONING ORDINANCE TO CHANGE ZONING FROM RURAL TO O-I ON PROPERTY ON THE SOUTH SIDE OF FAIRVIEW ROAD, EAST OF PARK ROAD, ON PETITION OF T. F. BLACK.

The scheduled hearing was held on Ordinance No. 38-Z Amending the Zoning Ordinance to amend the Building Zone Map of the Perimeter Area by changing zoning on property on the south side of Fairview Road, east of Park Road, from Rural to O-I, on petition of Mr T. F. Black.

The Planning Director stated this consists of two separate pieces of property, one fronting on Fairview Road, adjoining an unopened street, the other parcel being at the other end of the street. The property is adjoined on the south by Fairview Meadows Subdivision; across the street is the Celanese Building and farm property.

Mr Paul Younts, agent for the petitioner, stated that Eastern Airlines has purchased 5 acres and taken an option on the remaining 17 acres. That the unopened road was put across the property by the owner and petitioner, Mr T. F. Black; that they are asking for the change in zoning to straighten the line and zone the two parcels to make uniform O-I zoning

of the 22 acres. He stated EAL will have three buildings and he hopes it will bring Eastern's entire computing system offices to Charlotte. Straightening the property line will put all of their parking in the rear.

No opposition was expressed to the change in zoning.

PLANNING BOARD REQUESTED TO MAKE RECOMMENDATION ON ORDINANCE NO. 36-Z TODAY TO CHANGE ZONING ON PROVIDENCE ROAD.

Councilman Thrower moved that the Planning Board be requested to act on Ordinance No. 36-Z petitioning for a change in zoning on Providence Road, and Ordinances No. 34-Z and 38-Z if they wish, and bring back recommendation so that Council can act today. Councilman Whittington seconded the motion for the Board to make a recommendation today on Ordinance No. 36-Z but stated he did not want them to recommend on the other two ordinances as he has not looked at all of the properties involved. Councilman Thrower amended his motion to request the Board to make a recommendation on Ordinance No. 36-Z only today.

Councilman Smith stated the only thing bothering him is that these people have spent some \$50,000.00 on the Greentree Apartment project. He asked the City Attorney what responsibility will the Council and Planning Board have regarding this? Mr Shaw, City Attorney, replied neither has any responsibility; that enough work has been done on the project to be a non-conforming use. Councilman Smith asked if the Permit can be withdrawn by the City? Mr. Shaw replied that the City cannot, it is now a matter of law.

The vote was taken on Councilman Thrower's motion, and unanimously carried.

Councilman Dellinger stated the accusation was made that the Planning Board has been too slow in rezoning such areas, and he asked if there are similar areas in this same category where the zoning is Rural, and would it not be best to rezone those? That if this area had been rezoned, this matter would not have come up. Mr McIntyre, Planning Director, stated he does not think other areas could be rezoned any more quickly than by the new zoning ordinance. Councilman Dellinger stated there will probably be other similar requests, and he asked if the Planning Board cannot get the new zoning ordinance to Council before September 1st, to which Mr McIntyre replied they could not.

Mr Shaw, City Attorney, stated as he understands it certain people have been criticized in the matter. That he has been practicing law for 38 years and he has looked up titles and asked the property owner what the zoning was on either side of him, and not one person out of three knew. He stated people could have found out in this area whether restricted, and he thinks it is unfair to criticize those who have charge of the Planning and Zoning for the city, for something these people had not protected themselves against.

RECESS TAKEN BY COUNCIL FOR FIVE MINUTES.

At the request of Council, Mayor Brookshire called a five minute recess, after which the meeting was reconvened.

DISCUSSION OF THE PURCHASE OF VOTING MACHINES.

Mr Henry Bost of Wilmington, representing Shoup Voting Machine Corporation,

New York, stated he has been to Charlotte quite often in the last four years to sell the Council on the idea of its need for voting machines. That he makes himself available to any member of the Council for the benefit of his experience in the sale and use of these machines. That voting machines will not pay for themselves but from a study of our election experiences, a big savings will be realized, and they will sell them to the City on a long term basis, at 5% interest. That Forsythe County has worked out a formula based on population, registration, etc., and last year the County paid 61% and the City of Winston-Salem paid 39%; that Greensboro pays so much per month, and High Point bought their machines in 1948 and have rented them at 5% of purchase price to the county for each election. He stated he agrees the purchase of the machines is a County cost, but as long as the City has its own municipal and bond elections, they should participate in the cost of the machines.

CHARLOTTE MEDICAL SOCIETY AND MECKLENBURG ORGANIZATION ON POLITICAL AFFAIRS RECOMMEND THAT BEFORE CITY CONVEYS GOOD SAMARITAN HOSPITAL DEED TO CHARLOTTE MEMORIAL HOSPITAL AUTHORITY CERTAIN ACTIONS BE TAKEN.

Dr R.A. Hawkins, speaking for the Charlotte Medical Society and the Mecklenburg Organization on Political Affairs, requested before the Good Samaritan Hospital deed is conveyed to the Charlotte-Mecklenburg Hospital Authority that Negro indigent and paying patients be admitted on a desegregated basis to all hospitals under the control of the Charlotte-Mecklenburg Authority or an expanded board therefrom, and that Negro physicians and dentists be granted the privilege of practicing in those hospitals under the auspices of the Charlotte-Mecklenburg Hospital Authority, that Negro medical and para-medical personnel, such as residents, interns, nurses, laboratory technicians, etc be trained on a desegregated policy in the existing hospital facilities and schools, that consideration be given to the hiring of a competent Negro administrator or assistant administrator to serve in one of these hospitals in the newly formed hospital system, and that Negroes be appointed to serve on the Charlotte-Mecklenburg Hospital Authority.

Mayor Brookshire thanked Dr Hawkins for coming down, and stated the City does not operate a hospital; that Memorial Hospital is deeded to the Hospital Authority; that the Council has been moving steadily for several years to furnish adequate hospital facilities for all citizens.

APPLICATION OF CAROLINA DETECTIVE AGENCY FOR RENEWAL OF LICENSE TO OPERATE DETECTIVE BUSINESS APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimately carried, renewal of license to Carolina Detective Agency to operate an agency for one year was authorized.

APPLICATION OF NIXON EXTERMINATING COMPANY FOR RENEWAL OF LICENSE TO OPERATE AN EXTERMINATING SERVICE IN CHARLOTTE APPROVED.

Councilman Bryant moved approval of the application of Nixon Exterminating Company, Gastonia, N. C. for the renewal of his license to operate an exterminating service in Charlotte for a period of one year. The motion was seconded by Councilman Smith, and unanimately carried.

STREETS TAKEN OVER FOR MAINTENANCE.

Motion was made by Councilman Albea, seconded by Councilman Jordan, and unanimously carried, that the following streets be taken over for city maintenance:

- (a) Blenwood Drive, from the Plaza 1,150 feet south to end of street.
- (b) Dora Drive, from 150 feet east of Purser Drive 700 feet east to Glenville Drive.
- (c) Kildare Drive, from the Plaza to Olinda Street.

CONSTRUCTION OF SANITARY SEWER LINES IN SEYMOUR AND AN UNNAMED STREET TO SERVE PLATO PRICE SCHOOL AUTHORIZED.

Councilman Whittington moved approval of the construction of 526-feet of sanitary sewer lines in Seymour Street and an unnamed street, to serve Plato Price School, at the request of the Board of Education, at an estimated cost of \$1,895.00, to be borne by the applicant. The motion was seconded by Councilman Thrower, and unanimously carried.

CONTRACTS AUTHORIZED FOR THE INSTALLATION OF WATER MAINS.

Motion was made by Councilman Dellinger, seconded by Councilman Whittington, and unanimously carried, authorizing the installation of water mains at the following locations:

- (a) Contract with Liberty Construction Company for the installation of 4,840 feet of water mains and 5 hydrants in Tiffany Terrace Subdivision, inside the city limits, at an estimated cost of \$18,300.00. The City to finance all costs and the applicant to guarantee an annual gross water revenue equal to 10% of the total cost.
- (b) Contract with Charlotte Lumber & Mfg. Company for the installation of 1,915 feet of water mains and 2 hydrants in Northmore Subdivision inside the city limits, at an estimated cost of \$5,525.00. The applicant to finance the cost and the city will retain such funds until the revenue from the mains equal 5% of the total cost within any 12 months continuous period, at which time the applicant will be reimbursed the funds advanced.

TRANSFER OF CEMETERY LOT.

Councilman Thrower moved that the Mayor and City Clerk be authorized to execute a deed with Mr Harry E. Bush, Sr for the transfer of Lot 372, Section 4-A, in Evergreen Cemetery, at \$189.00. The motion was seconded by Councilman Dellinger, and unanimously carried.

RESOLUTION PROVIDING FOR A PUBLIC HEARING ON AUGUST 14TH ON ORDINANCE NO. 39 AMENDING CHAPTER 23, ARTICLE I OF THE CITY CODE, TO ESTABLISH RESIDENCE-3 DISTRICTS, IN THE CHARLOTTE AREA.

Upon motion of Councilman Dellinger, seconded by Councilman Jordan, and unanimously carried, Resolution Providing for a Public Hearing on August 14th,

July 17, 1961
Minute Book 40 - Page 447

on Ordinance No. 39 Amending Chapter 23, Article I of the City Code, to establish Residence-3 districts in the Charlotte Area was adopted. The resolution is recorded in full in Resolutions Book 4, at Page 129.

RESOLUTION PROVIDING FOR A PUBLIC HEARING ON AUGUST 14TH ON ORDINANCE NO. 40 AMENDING CHAPTER 23, ARTICLE II, OF THE CITY CODE, TO ESTABLISH RESIDENCE-3 DISTRICTS IN THE PERIMETER AREA.

Councilman Dellinger moved the adoption of a Resolution Providing for a Public Hearing on August 14th on Ordinance No. 40 Amending Chapter 23, Article II, of the City Code, to establish Residence-3 Districts in the Perimeter Area. The motion was seconded by Councilman Jordan, and un-animously carried. The resolution is recorded in full in Resolutions Book 4, at Page 131.

CITY ATTORNEY STATES ADOPTION OF ORDINANCES ESTABLISHING NEW ZONING CLASSIFICATION WITHOUT CHANGING MAP IS USELESS.

The City Attorney called attention if the above two ordinances are adopted, there would be an R-3 classification without a map change. You will expend money for Advertisement of the date of the Hearings and until you adopt the new zoning plan, you may never use this new classification.

The City Manager advised the City Attorney the only purpose of the ordinances is to get the R-3 classification in effect now, while the overall ordinance is being prepared, because the developers are in a hurry for this provision.

RESIGNATION OF J.H. MURNICK FROM PARK & RECREATION COMMISSION ACCEPTED WITH REGRETS.

Councilman Albea moved that the resignation of Mr J. H. Murnick from the Park & Recreation Commission be accepted with regrets. The motion was seconded by Councilman Jordan, and unanimously carried.

CITY MANAGER REQUESTED TO HAVE COST ESTIMATE MADE FOR EXTENDING CHARLES AVENUE TO WHITING AVENUE.

Councilman Whittington requested the City Manager to give the Council a cost estimate for extending Charles Avenue to Whiting Avenue. He stated his reason is that Highland School in North Charlotte is without ingress and egress on the north end, and the children must walk across open low land, about two blocks.

REQUEST FOR COST ESTIMATE OF WORK ON 35TH STREET, FROM THE PLAZA TO CALDWELL STREET.

Councilman Whittington stated he asked about three weeks ago for a cost estimate on the work on 35th Street, from The Plaza to Caldwell Street, and would like to have it today if ready, if not at the next meeting.

REQUEST REPEATED THAT WORK BE DONE ON TILLMAN ROAD.

Councilman Whittington stated he has asked that something be done about the condition of Tillman Road, and as of yesterday nothing has been done to the street. He asked that a report be made on this work at the next meeting.

REPORT ON CONDITION OF RUSH AVENUE REQUESTED.

Councilman Whittington stated he has previously requested the City Manager to have something done about the condition of Rush Avenue, and he would like a report at the next meeting.

CITY MANAGER REQUESTED TO HAVE HOLES REPAIRED IN CAROLYN AVENUE AND BRIARCREEK ROAD.

Councilman Whittington stated there are holes in Carolyn Avenue and Briarcreek Road, and he requested the City Manager to have them repaired.

CITIZENS SAFETY ASSOCIATION WILL REPORT ON RECOMMENDATIONS REGARDING THE CITY'S JAYWALKING ORDINANCE AT MEETING ON AUGUST 14TH.

Councilman Smith stated the Citizens Safety Association will meet on August 4th and will report to Council at the next meeting on August 14th relative to their recommendation on the City's Jaywalking Ordinance.

CITY MANAGER REQUESTED TO REPORT ON CONFUSION IN STREET NAME SIGN AT FREEDOM DRIVE AND THRIFT ROAD.

Councilman Dellinger asked for a report on the confusion in the street name sign at Freedom Drive and Thrift Road. The City Manager advised he has asked for an investigation and report by the Traffic Engineer.

PROPERTY AT INTERSECTION OF WALNUT AVENUE AND INDEPENDENCE BOULEVARD RELEASED TO OWNER FOR CONSTRUCTION OF SERVICE STATION, IN LIEU OF CITY ACQUIRING IT FOR NORTHSOUTH EXPRESSWAY.

Upon the recommendation of the City Manager, Councilman Dellinger moved that the property at the intersection of Walnut Avenue and Independence Boulevard be released to the owner for the construction of a service station in lieu of the city acquiring it for use in the north-south expressway. The motion was seconded by Councilman Whittington, and un-animously carried.

ORDINANCE NO. 36-Z AMENDING THE ZONING ORDINANCE TO CHANGE THE ZONING FROM RURAL TO R-1 ON PROPERTY SOUTHWEST OF PROVIDENCE ROAD, BETWEEN SHARON LANE AND MCMULLEN CREEK, ADOPTED.

Mr. McIntyre, Planning Director, reported that the Planning Board has met and considered the petition to change the property southwest of Providence Road, between Sharon Lane and McMullen Creek, from Rural to R-1, and recommends approval of the change, because they propose to recommend an R-15 classification of the area in the new zoning plan, which is the highest residential classification, and because the R-1 zoning is consistent with the development in the area.

Councilman Albea moved the adoption of Ordinance No. 36-Z Amending the Zoning Ordinance to change the zoning from Rural to R-1, as recommended by the Planning Board. The motion was seconded by Councilman Whittington, and unanimously carried.

The ordinance is recorded in full in Ordinance Book 13, at Page 83.

July 17, 1961
Minute Book 40 - Page 449

ORDINANCE NO. 38-Z AMENDING THE ZONING ORDINANCE TO CHANGE THE ZONING FROM RURAL TO O-I ON PROPERTY ON THE SOUTH SIDE OF FAIRVIEW ROAD, EAST OF PARK ROAD, ADOPTED.

The Planning Director reported that the Planning Board has met and un-animously recommends approval of the change in zoning from Rural to O-I on the property on the south side of Fairview Road, east of Park Road, as it is an extension of the present zoning in the area.

Councilman Dellinger moved the adoption of Ordinance No. 38-Z Amending the Zoning Ordinance to change the zoning from Rural to O-I, as recommended by the Planning Board. The motion was seconded by Councilman Jordan, and unanimously carried. The ordinance is recorded in full in Ordinance Book 13, at Page 84.

ORDINANCE NO. 34-Z AMENDING THE ZONING ORDINANCE TO CHANGE ZONING FROM R-2 TO B-1 ON PROPERTY LOCATED AT TUCKASEEGEE ROAD AND GLENWOOD DRIVE, CONTINUED TO JULY 31ST ON REQUEST OF PLANNING BOARD.

Mr McIntyre, Planning Director, advised that the Planning Board has considered the petition for a change in zoning from R-2 to B-1 on property located at Tuckaseege Road and Glenwood Drive, and recommends that it be deferred for their further study.

Councilman Dellinger moved that Ordinance No. 34-Z Amending the Zoning Ordinance to change zoning from R-2 to B-1 on property at Tuckaseege Road and Glenwood Drive, be continued to July 31st, for further study by the Planning Board, as requested. The motion was seconded by Councilman Thrower and unanimously carried.

AUDITORIUM-COLISEUM AUTHORITY INSTRUCTED TO DISCONTINUE OPERATION OF ICE HOCKEY AS A MUNICIPAL FUNCTION AND TAKE NECESSARY STEPS TO PROTECT FRANCHISE.

Councilman Whittington moved that the Auditorium-Coliseum Authority be instructed to relinquish ice hockey operations but keep the franchise and do whatever they think best regarding ice hockey. The motion was seconded by Councilman Thrower.

The City Attorney suggested that it would be preferable to request the Authority to work out an arrangement for the operation of the ice hockey team with the City retaining the franchise and report back to the Council.

Councilman Whittington stated it is the consensus of the Council that the Authority should get out of ice hockey, and they keep the franchise because in a couple of years they might want it. That if they keep the franchise, the citizens group will not have to put up the deposit.

Councilman Smith offered a substitute motion that the City of Charlotte shall no longer have any financial responsibility for ice hockey.

The City Attorney pointed out that the City bought the Team and the Authority operated the facility for the city.

Councilman Whittington offered a second substitute motion that the Authority be instructed to discontinue the operation of ice hockey as a municipal function and they be authorized to take whatever steps necessary to protect the City's future interest in the franchise, and at the same

21070

time encourage the continuation of this sport in Charlotte by private interests. The motion was seconded by Councilman Alba. At the suggestion of the City Attorney, the motion was amended by adding at the end thereof, provided, however, any agreement made in this connection be reduced to writing and approved by Councilman Whittington, the City Manager, and the City Attorney. The vote was then taken on the motion, as amended, and unanimously carried.

APPOINTMENT OF W. W. HANKS AS A MEMBER OF THE CHARLOTTE-MECKLENBURG PLANNING BOARD.

Councilman Alba moved the appointment of Mr Wallace W. Hanks as a member of the Charlotte-Mecklenburg Planning Board, for a term of three years, expiring on June 30, 1964. The motion was seconded by Councilman Dellinger, and unanimously carried.

CLAIM OF JOHN C. BENNETT AGAINST CERTAIN CITY OFFICIALS DENIED.

Councilman Thrower moved that the claim of Mr John C. Bennett filed with the Council on July 10, 1961, against certain city officials for the alleged failure of said officials to protect the city's interest in regard to contracting with Geo G. Scott & Company to audit the city's accounts, be denied, as recommended by the City Attorney. The motion was seconded by Councilman Alba, and unanimously carried.

The City Manager advised the City was served with a subpoena today in connection with the suit Mr Bennett has filed in Federal Court, and he has referred it to the City Attorney.

J.N. PEASE & COMPANY AUTHORIZED TO MAKE SUB-SURFACE INVESTIGATIONS IN CONNECTION WITH SUGAW CREEK SEWAGE TREATMENT PLANT CONSTRUCTION.


Councilman Whittington moved that J. N. Pease & Company be authorized to have the subsurface investigations made in connection with the construction of the Sugaw Creek Sewage Treatment Plant, under their existing contract, at a cost not to exceed \$6,650.00, as recommended by the City Manager.

J.D. MCQUAGE ELIGIBLE FOR WORKMAN'S COMPENSATION FOR PERSONAL INJURIES SUSTAINED WHILE ASSISTING POLICE OFFICER MAKING AN ARREST.

In connection with the request of Council that he advise if the City is liable for the claim of Mr J. D. McQuage in the amount of \$595.00 for injuries sustained on May 27th while assisting a Police Officer in making an arrest, the City Attorney stated in response to his request for a ruling in the matter from the office of the Attorney General, he is advised if Mr McQuage was on duty and acting in that capacity for the City then he is eligible for workman's compensation; therefore, his ruling is that Mr McQuage be so paid.

ADJOURNMENT.

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


Lillian R. Hoffman, City Clerk