

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, March 6, 1961, at 3 o'clock p.m., with Mayor Smith presiding, and Councilmen Albea, Babcock, Dellinger, Hitch, Myers, Smith and Whittington present.

ABSENT: None.

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INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Dellinger, seconded by Councilman Whittington, and unanimously carried, the Minutes of the last meeting on February 27th were approved as corrected at the request of Councilman Babcock on Page 263 relative to Ordinance No. 718, to record him voting against the substitute motion to adopt the ordinance, and in favor of the original motion disapproving the adoption of the ordinance.

DECISION ON ORDINANCE NO. 721 TO AMEND ZONING ORDINANCE ON PETITION OF J. L. GIBBS AND G. F. RICE FOR CHANGE IN ZONING FROM R-2 TO B-1 ON PROPERTY AT SOUTHEAST CORNER OF SUGAW CREEK ROAD AND DINGLEWOOD AVENUE, DEFERRED ONE WEEK.

In connection with the Council rendering a decision on Ordinance No. 721 to amend the Zoning Ordinance to change zoning from R-2 to B-1 on property at southeast corner of Sugaw Creek Road and Dinglewood Avenue, which was deferred at the last meeting for the petitioners to be asked if they were agreeable to a change to O-I instead of B-1, recommended by the Planning Board, Councilman Dellinger asked Mr. G. F. Rice, a petitioner, if they objected to the O-I zoning, and Mr. Rice replied it would not be acceptable to him and Mr. J. L. Gibbs, the other petitioner. Councilman Dellinger then asked if rezoning to B 1-A would be satisfactory and Mr. Rice stated that it would.

Councilman Albea moved that a decision be deferred one week and that the members of the Planning Board be invited to meet with the Council next Monday and explain why the Board recommends the O-I rezoning instead of B-1 as requested. The motion was seconded by Councilman Whittington, and unanimously carried.

DECISION ON ORDINANCE NO. 724 TO AMEND ZONING ORDINANCE ON PETITION OF ALTA ENTERPRISES, INC. FOR CHANGE IN ZONING FROM RURAL TO B-1 ON PROPERTY ON FAIRVIEW ROAD WEST OF SHARON ROAD, DEFERRED ONE WEEK.

Upon motion of Councilman Dellinger, seconded by Councilman Whittington, and unanimously carried, decision was deferred one week on Ordinance No. 724 to Amend the Zoning Ordinance to change zoning from Rural to B-1 on property on Fairview Road, west of Sharon Road, and the members of the Planning Board were invited to meet with Council next Monday to discuss the recommendation of the Board on the said ordinance.

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CHAIRMAN OF PLANNING BOARD INVITED TO MEET WITH COUNCIL, AT HIS CONVENIENCE, AND STATE HIS FEELING ON ANY DECISIONS MADE BY THE COUNCIL ON ZONING MATTERS.

Councilman Hitch moved that the Chairman of the Planning Board be invited to come before Council at his convenience and state his feelings on any decisions the Council has made on petitions for zoning changes. The motion was seconded by Councilman Smith.

Mayor Smith stated he will invite the Chairman of the Board and is sure he will come.

Councilman Dellinger stated the Planning Board taking the Council to task last week through the newspaper is the second time it has occurred without the Council hearing from the Board. That it seems if they have a grievance they should bring it directly to Council, and, as he suggested two months ago, the Board members and Council should sit down together and work things out.

The vote was taken on the motion and unanimously carried.

MEETINGS TO BE ARRANGED TO ESTABLISH PROCEDURE FOR (1) COUNCIL CONFERRING WITH PLANNING BOARD MEMBERS OF DIFFERENCES OF OPINIONS ON CHANGES IN ZONING OF PROPERTIES, AND (2) FOR SCHOOL BOARD TO BE ADVISED ON PROPOSED MATTERS AFFECTING SCHOOL PROPERTIES.

Mr. Ben Horack, member of the Mecklenburg County Board of Education, stated he has been requested to appear before Council relative to changes in zoning of property near and within the areas of school property because of its affect on the property, the safety of the school children etc. That they have millions of dollars in school property and anything that would adversely affect the property is of great concern to the Board. That often they are requested by patrons of a certain school at the last minute to come before Council and protest a change in zoning of nearby property, and they know nothing of the details, and it may well be that at times they enter into protests when they should not and visa versa. Therefore, they would like to ask when a petition for rezoning is filed that involves the area of a school, or the safety factor or the opening of arterial streets, that a copy of the petition and plat be referred to the School Board; that this would give them time to study it, and appraise the extent it could affect school property. Mr. Horack stated further they would welcome some kind of liaison with the Planning Board and City Council - probably the Mayor would appoint someone to work with the School Board and work out a form of procedure to affect such liaison.

Mayor Smith stated he has made a suggestion to Council today that when zoning matters come up that do not have complete meeting of the minds of Council and Planning Board, they be deferred on the date for decision for one week for discussion together as to the Board's recommendation. That where public properties are affected - such as schools, parks etc, officials of those Board could also be invited to be present.

Mayor Smith stated further that he and the City Manager and a member of the Planning Board and a representative of the School Board will confer together about a definite procedure for the benefit of all concerned.

Councilman Smith asked if the School Board's Site Committee was working with the Engineering Department relative to opening of streets in the vicinity of Schools? And Mr. Horack stated they are doing the best they can to do so and they want liaison with all departments and agencies affecting schools.

Mayor Smith stated he thinks this could be incorporated in whatever plans or procedure is decided upon, as the School Board should be tied in with all agencies.

ORDINANCE NO. 739 ADOPTED AMENDING CHAPTER 13, ARTICLE I, OF THE CITY CODE TO REGULATE PICKETING IN THE CITY OF CHARLOTTE AND TO PROVIDE FOR THE PUNISHMENT OF SUCH PICKETS IN THE EVENT OF VIOLATION OF THE REGULATIONS PRESCRIBED FOR PICKETS AND OF THOSE WHO UNLAWFULLY, BY WORD OR DEED, INTERFERE WITH OR THREATEN THE PEACEFUL ACTIVITIES OF PICKETS.

Miss Barbara Ferguson, representing Johnson C. Smith University Student Nonviolent Coordinating Committee, presented a paper in which the proposed ordinance regulating picketing was questioned; asking if the ordinance was not designed specifically with the students of Johnson C. Smith University in mind because of the demonstrations they have been carrying on; questioning such dubious maneuvers to inhibit their demonstrations; questioning the necessity for the proposed 15 foot intervals between demonstrators and limiting demonstrators to a total of 10 within one block and the restriction of the size of picket signs, and stating they do not feel the ordinance is in the best interest of the total citizenry of Charlotte.

The City Attorney explained the provisions of the ordinance as well as certain provisions that could not be legally included.

Councilman Hitch moved that Council action on the ordinance be deferred for one week. The motion lost for lack of a second.

Councilman Dellinger asked that the ordinance be considered now, and stated he cannot see any practical use for it.

Councilman Babcock stated the ordinance does not cover the situation as far as he had expected, but if the City Attorney says this is the extent to which the ordinance can regulate these matters, then it should be accepted.

Councilman Whittington asked the City Attorney if he is of the opinion that the ordinance will do any good in protecting the merchants or businesses on either side of the place being picketed, and Mr. Shaw replied that he does think so. That if the picketing was being done by a responsible organization, a restraining order could be effected but we have been dealing with student demonstrations without a cohesive organization, and the only manner by which it can be controlled is by legislating against the use of the sidewalks in such manner.

Councilman Hitch stated as the City Attorney feels this ordinance offers adequate protection to the demonstrators and persons affected by the demonstrators, he moves its adoption. The motion was seconded by Councilman Whittington, and unanimously carried.

The ordinance is recorded in full in Ordinance Book 13, beginning at page 43.

Mr. Shaw, City Attorney, stated it has been his observation that Moving Picture Theatres use our sidewalks for their lines waiting to purchase tickets. That in other cities the Ticket Booths are well inside the entrance to the theatre, and also they have more than one Ticket Booth. That private business should not be too dependent on the public sidewalk for carrying on its business.

GRIEVANCE REGISTERED BY H. M. MESSENGER RELATIVE TO EFFECT ON HIS PROPERTY OF MANNER IN WHICH STREET IS BEING IMPROVED WITH PAVING AND CURB AND GUTTER.

Mr. H. M. Messenger, 445 Lyttleton Drive, registered a grievance at the manner in which Lyttleton Drive is being improved with paving and curb and gutter, and its effect on his property. He advised he signed the petition circulated by the residents of the neighborhood for the improvements but did not check into the specifications for the work. That the developer from whom he purchased his property laid out the street according to State requirements, and his house was constructed at an elevation to fit the street and his driveway subsequently laid accordingly at a cost of \$600.00 to him. That he understood the roadbed for the pavement now being laid would be cut down to the same elevation of the properties along the street; however, it is being laid on top of the old roadbed and the curb will be 15 inches above his front yard and his driveway entrance has a bad dip in it. He stated the Engineering department says the drainage problem will be taken care of and if not satisfactory when completed the residents can then file complaints.

Mr. Bobo, Administrative Assistant, stated the City Engineer advises if the residents will allow them to complete the job and backfill behind the curb, he believes they will find the work completely satisfactory and the drainage will be as now. He stated further it would be a most unusual procedure to consider lowering the roadbed as referred to by Mr. Messenger.

Mayor Smith asked Mr. Messenger if he is not willing to wait until the work is completed and see if it is not satisfactory. Mr. Messenger stated it is his driveway he is particularly concerned about, as it will detract from the appearance of his place, and affect the value, and if he has to have it reconstructed, it would cost him another \$600.00. He asked that it be noted that he is at this point in the work filing an official grievance and expects the work to be satisfactory.

SUGGESTION MADE BY W. J. ELVIN THAT COUNCIL CONGRATULATE THE PRESIDENT ON THE FORMATION AND SUCCESS OF THE PEACE CORPS VOLUNTEERS.

Mr. W. J. Elvin, resident of 227 Brandywine Avenue, suggested that the Council, on behalf of the citizens of Charlotte, send a wire to President Kennedy congratulating him on the formation and success of The Peace Corps Volunteers. He stated he believes this organization will prove more successful towards developing World Peace and Understanding than anything created to date outside The United Nations.

NAME OF HAVENCREST AVENUE CHANGED TO HAVENCREST DRIVE.

Councilman Dellinger moved approval of the change in the name of Havencrest Avenue to Havencrest Drive, as requested by all the residents of the street and recommended by the Planning Board. The motion was seconded by Councilman Whittington, and unanimously carried.

CONDEMNATION PROCEEDINGS FOR RIGHT-OF-WAY FOR BROOKWOOD ROAD SANITARY SEWER AUTHORIZED STARTED.

Councilman Hitch moved that condemnation proceedings be started for right-of-way 153.62 ft. long by 10 ft. wide across the property of Mr. J.J. Greagan, Jr. for Brookwood Road sanitary sewer. The motion was seconded by Councilman Whittington, and unanimously carried.

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TRANSFER OF FUNDS FROM CONTINGENCY FUND FOR INSTALLATION OF SCHOOL FLASHING SIGNALS ON SENECA PLACE.

Motion was made by Councilman Whittington, seconded by Councilman Babcock, and unanimously carried, authorizing the transfer of \$550.00 from the Contingency Fund for the installation of school flashing signals on Seneca Place, on each side of Pinewood School.

CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, the construction of driveway entrances was authorized as follows:

- (a) Two 15-ft. entrances at 1311 E. Morehead Street.
- (b) One 10-ft. entrance on Catawba Avenue for 2433 The Plaza.

TRANSFER OF CEMETERY LOTS.

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

- (a) Deed with O.B. Black, Sr. & wife, Lillian H. Black, for Lot No. 95, Graves 4,5,6,7 and 8, Section 5, Oaklawn Cemetery, at \$3.00.
- (b) Deed with B. T. Alexander and wife, Johnnie T. Alexander, for Lot No. 95, Graves 1, 2 and 3, Section 5, Oaklawn Cemetery, transferred from O. B. Black, Sr. and wife, Lillian H. Black, at \$3.00.
- (c) Deed with R. D. or Alice M. Lewis, for Lot No. 355, Graves 1 and 2, Section 3, Evergreen Cemetery, at \$63.00.
- (d) Deed with A. M. or Mary H. Lewis, for Lot No. 355, Graves 3,4,5,6,7 and 8, Section 3, Evergreen Cemetery, at \$189.00.
- (e) Deed with Judson Lamar Dew, for Lot No. 123, Grave 1, Section 2, Evergreen Cemetery, at \$40.00.

CITY MANAGER REQUESTED TO AGAIN CONTACT RAILROADS RELATIVE TO REPAIRING CROSSINGS.

Councilman Dellinger asked the City Manager to again contact Railroad Officials relative to repairing street crossings over their tracks, as they are in such bad condition to cause damage to cars. Mr. Veeder advised they were requested to make these repairs sometime ago and are sometimes rather slow, and he will again take it up with them.

CITY MANAGER REQUESTED TO HAVE CHECK KEPT OF CONTRACTORS OPENING STREETS AND SEE THAT THEY RESTORE DRIVEWAYS AND PRIVATE PREMISES TO FORMER CONDITION.

Councilman Dellinger presented a letter from a citizen advising the entrance to his yard was left in such bad condition by a contractor putting a sewer line, or similar work, in the street, and he has had to spend \$172.00 restoring his property to its former condition. Councilman Dellinger stated this is a common complaint and he requested the City Manager to have a check kept on contractors opening streets for any purpose and see that private property is replaced as it was formerly.

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CITY MANAGER REQUESTED TO HAVE CHECK MADE OF ROBIN ROAD AND ADVISE IF CANNOT BE IMPROVED.

Councilman Dellinger advised that Robin Road, which is only one block long from Sharon-Amity Road to Westbury Road, is in bad condition and he would like the City Manager to have a check made to see if the street cannot be improved, as the residents deserve a better street than it is now, and if the street is in proper condition it will make a good connection between Sharon-Amity and Westbury Roads.

CITY MANAGER REQUESTED TO HAVE ENGINEERING DEPARTMENT PROCEED WITH STREET WORK.

Councilman Whittington asked that the Engineering Department be prodded into getting on with our street work now that the weather is good. He called attention to the condition in which contractors are leaving streets; that East Boulevard is a good example and at places where they have cut the street to lay utilities, sewer lines, etc., the repaired pavement is from one to four inches lower than the street.

CITY MANAGER REQUESTED TO SECURE STATEMENT OF REVENUE FROM VETERINARIANS INOCULATING PETS.

Councilman Whittington stated when the Veterinarians were allowed to inoculate pets and collect the fees, he asked that a statement as to their revenue be filed with the City at the end of six months. He requested the City Manager to secure the statement by next week's meeting.

DISCUSSION OF LEGISLATIVE BILLS TO BE DRAFTED BY CITY ATTORNEY.

At the request of Councilman Whittington for a report on the status of the Legislative Bills to be drafted, the City Attorney advised he has not received the re-written draft of the Recorder's Court Bill from the Attorney General and is expecting it daily.

He stated he assumes the Permanent Improvements Bill is to be rewritten to conform with the proposal of the League of Municipalities.

CITY ATTORNEY ADVISES TEST CASE IN GOOD SAMARITAN HOSPITAL TRANSFER DESIRED BY BOND ATTORNEYS AND METHODS OF INSTITUTING SUIT NOW BEING CONSIDERED.

In reply to the query of Councilman Hitch as to the progress of the Good Samaritan Hospital transfer, the City Attorney stated the Bond Attorneys have advised they want a test case in Superior Court and they made suggestions as to how it should be handled. That he is of the opinion that the suit can be brought in a simpler manner than suggested, and a decision can be had from the lower court within 90 days. That he has not been able to contact Good Samaritan Hospital Attorneys as yet and will do so as soon as possible, as the letter from the Bond Attorneys came in on Friday.

OFFER OF SALE OF VACANT LAND BETWEEN WEST 5TH AND WEST 6TH STREETS NEAR IRWIN CREEK ACCEPTED, SUBJECT TO REPORT OF APPRIASERS, AND BINDER AUTHORIZED PLACED ON PROPERTY AT THIS TIME.

The City Manager recommended that the vacant property lying between West

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5th and West 6th Streets be acquired, at a cost of \$12,000.00, as proposed by Councilman Smith at the last Council Meeting, subject to the confirmation of value by the appraisers, and that a \$100.00 binder be placed on the property at this time. He advised this property will be needed for the proposed North-South Expressway.

Councilman Dellinger moved that appraisers be appointed to bring in a price. The motion was seconded by Councilman Whittington, and unanimously carried.

Councilman Albea moved that a \$100.00 Binder be placed on the property at this time. The motion was seconded by Councilman Hitch, and unanimously carried.

At the question of Councilman Myers if the City Manager has any planned program for acquiring other such property, Mr. Veeder stated he will recommend in the new budget that a sizable amount be put away for acquiring property for proposed expressways.

INCREASED RATES IN CEMETERY CHARGES DEFERRED ONE WEEK FOR STUDY.

The City Manager advised that changes in the cemetery rates were included in the new City Code in error, as he had intended the revised rate schedule for Council consideration and it was inadvertently included in the Code; however, the new rates would produce an additional \$7,300.00 a year in the cemetery revenue, which is badly needed; that the cemetery revenue for the first six months was \$12,373.00 and expenditures \$52,515.00. He stated if the changes as made are approved, no action is necessary, if not then the ordinance must be amended or resinded as the Council wishes.

Councilman Whittington expressed objections to the inclusion of the extra fee of \$10.00 for burials after a certain hour of the day. He moved that this be deleted from the ordinance, and also delete that portion reading, "after 4 p.m. on weekdays and after 11 a.m. on Saturday" and substitute in lieu thereof "after 1 p.m. on Saturday". The motion was seconded by Councilman Smith.

Councilman Albea stated he does not approve of charging extra for Sunday burials, and he offered a substitute motion that the Ordinance be left as it is with the exception of changing the hours, and the hours on Saturday and Sunday remain the same as prior to March 1st and the rates not be increased. The motion was seconded by Councilman Dellinger.

Councilman Smith offered a second substitute that the matter be postponed one week for further information. The motion was seconded by Councilman Hitch, and unanimously carried.

BUDGETED FUNDS AUTHORIZED USED TO PROVIDE ACCESS ROAD OFF NATIONS FORD ROAD TO NEW LANDFILL SITE.

Upon motion of Councilman Albea, seconded by Councilman Hitch, and unanimously carried, \$23,587.00 of budgeted funds were authorized used to provide an access road off Nations Ford Road to the new Landfill Site, as recommended by the City Manager.

FUNDS IN LANDFILL IMPROVEMENTS BUDGET AUTHORIZED USED FOR IMPROVEMENTS TO CITY GARAGE.

Councilman Dellinger moved that \$5,800.00 of the current budget for Landfill Improvements be used for improvements to the City Garage, as recommended by the City Manager. The motion was seconded by Councilman Smith, and unanimously carried.

PROVISION OF GROUP INSURANCE POLICY WITH LIFE INSURANCE COMPANY OF VIRGINIA FOR THE CONTINUATION OF \$1,000.00 GROUP LIFE INSURANCE TO CITY EMPLOYEES EMPLOYED PRIOR TO APRIL 1, 1961 UPON REACHING AGE 65 OR RETIREMENT, WHICHEVER IS EARLIER, ADOPTED.

Councilman Whittington asked why the older employees in service who will retire and those who have retired, now being carried by City, cannot keep the old \$1,000.00 group life coverage and would they not be better off and cost the city less? Mr. Earle, Personnel Director, stated it would be a higher rate all across the board, and he sees no way to enter into a separate contract for them.

Councilman Babcock stated he feels the Council owes an obligation to the older employee, and he moved that the Group Insurance Policy to become effective April 1, 1961 with Life Insurance Company of Virginia, contain the provision for the continuation of \$1,000.00 group life insurance for all participating employees employed prior to April 1, 1961, upon reaching age 65 or retirement, whichever is earlier, and contain the provision for insurance termination at age 65 or retirement, whichever is earlier, for all persons employed, or re-employed on or after April 1, 1961. The motion was seconded by Councilman Hitch, and unanimously carried.

Councilman Whittington stated what the Council is doing is protecting the present employee and limiting coverage to persons employed after April 1, 1961.

The vote was taken on the motion, and unanimously carried.

ADJOURNMENT.

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



Lillian R. Hoffman, City Clerk