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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, June 18, 1962, 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 present during the hearings on petitions for changes in zoning classifications were Mr. Sibley, Chairman, Mr. Delaney, Mr. Hanks, Mr. Jones, Mr. Lakey, Mr. Toy and Mr. Turner.

ABSENT: Mr. Craig, Mr. Ervin and Mr. Ward.

* * * * *

INVOCATION.

The invocation was given by Mrs A. G. Garr, Pastor, Garr Memorial Church.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, the Minutes of the last meeting on June 11th were approved as submitted.

OFFER TO CITY TO PURCHASE SITE FOR LANDFILL GARBAGE DISPOSAL WITHDRAWN.

Mayor Brookshire announced that the hearings on petitions for changes in zoning classifications must occupy the attention of the City Council, as advertised, at this hour before other matters may be considered.

However, in view of the large audience present, whom he understands is present with regard to a Landfill Garbage Site, he would like to say that the offer which was made the City to purchase the site in Crab Orchard Township has been withdrawn and therefore the City Council has nothing upon which to act in the matter.

Mr. Allan Bailey, Attorney representing the delegation, asked that Mr. George Barrett be permitted to say a few words to the delegation.

Mr. Barrett stated he wishes to say to the citizens of Hickory Grove Community that he owns land out there but it is not for sale and he has never offered it for sale and would not take the price that was offered in the newspaper, and would not sell it under any circumstances for a garbage dump because he lives out there, goes to church out there and his children go to school out there and he would hate to see a garbage dump in that nice residential section.

A gentleman in the audience asked if any of the Zoning matters pertain to a landfill site? Mayor Brookshire advised there is nothing on the Agenda today.

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HEARING ON PETITION NO. 62-21 FOR CHANGE IN ZONING OF PROPERTY AT 1315 AND 1321 PECAN AVENUE.

The scheduled hearing was held on Petition No. 62-21 by William G. and Ruby Squires for change in zoning from O-6 to B-1 of two 50-foot lots at 1315 and 1321 Pecan Avenue.

Mr. Devaney, Assistant Planning Director, advised the property lies at the back of the business property along Central Avenue and the residential section on the north side of Hamorton Place; that at the corner of Central Avenue there is a Dairy Queen; that originally the B-1 zoning came back a distance of approximately 300 feet parallel to Central Avenue and in the rezoning, as a result of the Hearings, the Office Zone was extended all the way back to Hamorton Place and is wider than originally recommended but the Business zoning remains strictly along Central Avenue as originally recommended by the Planning Board.

Mr. W. G. Squires, Petitioner, stated behind the Dairy Queen is a building owned by him and used for business, then there is a public alley, and then the two lots in question which he purchased in January this year. That he was unaware that the zoning on these two lots had been changed from Business until he had spent several thousand dollars to make them suitable for business usage and came to City Hall to see about some additional improvements and was told the zoning had been changed the latter part of the month in which he bought the lots. He advised that immediately behind these two lots is Reid Electric Company, and in view of this and the business along Central Avenue he does not feel further business could detract from the residential area, and to the best of his knowledge no one objects to the lots being zoned Business.

No opposition was expressed to the requested change.

Council action was deferred for the recommendation of the Planning Board.

HEARING ON PETITION NO. 62-22 FOR CHANGE IN ZONING OF PROPERTY AT NORTHEAST CORNER OF KELLER AVENUE AND CUSTER STREET.

The public hearing was held on Petition No. 62-22 by Walter Washington, Roy S. Wynn and R. D. Hill for a change in zoning from R-6MF to O-6 of a parcel of land 100' x 175' at the northeast corner of Keller Avenue and Custer Street.

Mr. Devaney advised the property is now vacant and immediately behind Beatties Ford Road are residential uses and the neighborhood in the last few years has been developing with new duplexes and single-family houses and there is a church immediately in the area on Beatties Ford Road.

Dr. Walter Washington, one of the petitioners, stated that approximately two years ago he, Dr. Wynn and Dr. Hill purchased the land for the purpose of moving their offices there from the Brooklyn Area when the Urban Renewal Project became sufficiently advanced that they must move; at that time they were told the land could be used for offices, and then some three months ago when they began getting their plans in order they learned the zoning had been changed which would not permit the erection of offices or a clinic. He would like to point out there are no single family residences being erected near this property, only duplexes.

Councilman Dellinger stated as he recalls it some four or five years ago the residents of this area came before Council and requested that the property be restricted to residences; that at that time the property contained a portion

SUBJECT

of the cemetery property, which was eliminated, and he wonders if these residents are going to object to offices being erected? Dr. Washington stated they have not heard of any objections and there is only one residence there that could possibly be affected; that the road is not open on Custer Street beyond Keller Street, and the only thing that borders on Custer is the back of a junk yard fronting on Beatties Ford Road.

No opposition was expressed to the requested change in zoning.

Council decision was deferred for the recommendation of the Planning Board.

HEARING ON PETITION NO. 62-23 FOR CHANGE IN ZONING OF LAND ON SOUTHSIDE OF HUTCHINSON-MCDONALD ROAD (SLATER ROAD).

The scheduled hearing was held on Petition No. 62-23 by Michael G. Plumides, John G. Plumides and Nick and Pearl Kaperonis, for a change in zoning from R-9 to B-2 on 23.349 acres of land on the south side of Hutchinson-McDonald Road (Slater Road), beginning at the center line of Little Sugaw Creek and extending eastward 1200.32 feet.

Mr. Devaney advised this is a large tract of land located between Beatties Ford Road and Statesville Road, fronting on Hutchinson-McDonald Road, formerly Slater Road, and is some three miles outside the city limits; that there is a large commercial fishing lake in the area and there is very little development in the entire area, except scattered residences.

Mr. Michael Plumides, a petitioner, stated he is not sure he is correct in asking for B-2 zoning, that he intends selling the property if it is rezoned, to a buyer who wishes to build a trailer repair service; that the land itself has nothing on either side nor across the street; that there is one residence in the vicinity; that the property is located approximately one mile from Beatties Ford Road and the same distance from Statesville Road, and Slater Road deadends at both of these streets. He stated he discussed with the Planning Board the proper zoning and they said B-2 and he hopes that is correct to take care of the usage he wishes made of it. He advised that all of the people surrounding his property have joined in a petition to have their properties zoned Industrial.

Mrs. E. R. O'Dillon, stated she objects to the change in zoning, that she owns 45 acres of the Slater land, a Mrs Neely owns about 72 acres, and Mrs. Ross owns about 75 acres and Mr. Hutchinson owns about 70 acres; that she has developed about 21 acres of her property, but they wish to hold their property as it is zoned R-9. That Mr. Keller, who owns a good bit of land behind the property in question wanted it zoned for Business-2 and Mrs Neely told her he wanted them all to join with him and pull the wool over the eyes of the other property owners, but she refused; that she wishes to go with the majority of the residents and they do not want any trucking company. Councilman Jordan asked about the Industrial zoning that has been mentioned, and she replied they do not want this with all of its noise and dust. Mrs. O'Dillon stated that Mr. Devaney is mistaken that the area is not well developed residentially as there are quite a number of expensive residences, some costing as much as \$40,000.00, and there is one house the people have not even moved into.

Mr. Plumides stated when they bought the property some colored people had asked him about it and they wanted to repurchase it from them to build cheap houses for their use, which was alright with him as there were no restrictions on it; but they found it would cost around \$50,000.00 to get sewer lines and water lines and this was impractical and it will have to be left as it is unless he can get it rezoned so that it may be sold to the purchaser they now

have. That this business is not going to interfere with anyone, that the property fronts on the road, and most of the houses Mrs O'Dillon is speaking of sit 200 or 300 feet back off the road; that across the street the land is completely vacant. That he certainly does not think it will reduce property values, in fact it may raise them. That most of the people say they want Industrial zoning and the people Mrs O'Dillon is speaking of live from one to one and a half mile away from the property. He called attention that Mr. Devaney, himself, stated the area is sparsely settled.

Councilman Dellinger asked how close the property is to Mr. Blasingame's new home and Mr. Plumides stated one half to three-quarters of a mile. Mrs. O'Dillon stated it could not be more than 500 feet.

Councilman Dellinger asked Mrs O'Dillon if she has a petition containing 20% of the property owners, and she replied she does not actually have a petition but she could get it. Councilman Dellinger then asked if she has the names of anyone on a petition that adjoins the property or is across the street from the property, and she stated she does not.

Council action was deferred for a recommendation from the Planning Board.

HEARING ON PETITION NO. 62-24 FOR CHANGE IN ZONING OF LAND FRONTING ON WEST SIDE OF MCALWAY ROAD.

The public hearing was held on Petition No. 62-24 by Mrs Gertrude Funderburk for a change in zoning from R-9 to R-6MF of a parcel of land fronting 52-feet on the west side of McAlway Road, beginning 142.85 feet south of Beal Street.

Mr. Devaney advised the property is part of the vacant land at the corner of McAlway Road and Beal Street as you come in from Monroe Road.

Mr. Gene Johnson stated he obtained an option for the purchase of the property from Mrs Funderburk, the petitioner, about November 14th with plans for putting up an apartment house; that the remainder of the property is zoned for multi family use and he has spent \$2,000.00 for architects fees to draw the plans assuming he would be able to get the entire piece of property, and then found this portion was zoned differently and unless he can obtain all of the property he cannot build the apartment he wishes as there will not be sufficient area for parking.

Mr. W. L. Harris, Jr. stated he wants to verify what Mr. Johnson has said and things happened beyond his control to delay the project and had they gone along as planned he would have had the apartment already built.

Mr. Charles Myers, Attorney representing 14 land owners, stated they believe the granting of this zoning change will diminish the market value of their property. It has been proposed by Mr. Johnson of Basic Homes to build 18 units on an area which in all, including the tract he wants rezoned, would be an average of 200' x 230'.

Mr. Myers presented a petition of protest which he stated contains the signatures of 20% of the land in all directions from the property in question.

He stated his clients believe they have quality homes and he gave the value placed on the home of each signer, which varied from \$10,000 to \$35,000. Mr. Myers presented pictures of the homes of his clients. He stated that in contrast with the quality of these homes, Basic Homes is noted for its inexpensiveness and he believes that is the selling point of these homes. He stated further that two units of Basic Homes have been constructed in

Charlotte, one at 620 Queens Road and the other at 811 Bromley Road, and he believes that Basic Homes has tacked these units on the back of nice residences. He submitted pictures of these Basic Homes. He stated when the Bromley Road Basic Homes application was made for six units, the total cost was \$18,400.00, and the Queens Road Homes application was listed at \$19,400.00. Now, if these are accurate these units will cost Basic Homes \$3,000.00 to \$4,000.00 per family dwelling which in itself would indicate that it is cheap construction.

Mr. Myers called attention to the spaciousness of the lots in the McAlway Road area, while these 18 units are proposed to be constructed in an area around 200' x 230'. He stated further there has been no architectural forms under seal filed as to the size of the rooms etc so that the public may see just what is to be built.

He stated further that the traffic conditions in the area are already hazardous, Walker Road being an access road from Randolph section into McAlway and McAlway Road, itself, is heavily traveled and they come together very close to where the 18 units are proposed, which will make a hazardous block in the area.

Mr. Myers advised that Basic Homes' policy is to underbuild on a street with a good name, and when an applicant comes in and asks for equity to help him out, he should come in with clean hands and should do equity himself and not just comply with minimum requirements of the zoning code.

He advised his clients feel if they must live with the units Mr. Johnson proposed to build, then they are entitled to a 50 foot buffer zone and the property in question should be retained as presently zoned to serve that purpose.

Mr. Johnson stated both the Queens Road and Bromley Road Units were built under contract according to plans and specifications, and they were not his property but this one is to be his and he has presented architectural plans to the Planning Board which were drawn by J. A. Malcolm, and they are larger and finer than any home in the McAlway Road area; that they will be furnished and air conditioned and no children will be allowed as they are for young working people, and he strongly objects to Mr. Myers stating that Basic Homes are known for their low cost, that they do try to keep the cost low but will build anything that people will pay for.

Mr. Turner, Member of the Planning Board, asked how near the duplexes are that have been built on McAlway Road, and Mr. Johnson stated he would say approximately 500 feet and they are an eye sore. Mr. Johnson stated further that apartments can be built on the lot under the present zoning, but not as many as they wish to build.

Council decision was deferred for the recommendation of the Planning Board.

COUNCILMAN WHITTINGTON PRESENT AT MEETING FOR REMAINDER OF SESSION.

Councilman Whittington came into the meeting at this time and was present for the remainder of the session.

HEARING ON PETITION NO. 62-17 FOR CHANGE IN ZONING OF PROPERTY NORTH OF FREELAND LANE.

At the Council Meeting on June 4th, at the request of Mr. Jack Hamilton,

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Attorney for the petitioner, Mr. W. J. McArthur, for change in zoning from R-6MF to I-1 and I-2 of property north of Freeland Lane, the petition was referred to the Planning Board for consideration of new evidence at the next hearing date on June 18th.

At the inquiry of Mayor Brookshire if the opponents to the change who appeared at the Hearing on May 28th are present as well as the petitioner, it was determined that both sides are represented and Mayor Brookshire stated both sides would be heard if they so desire.

Mr. Ray Rankin, who represented the petitioner at the hearing on May 28th stated he will waive any further arguments on behalf of Mr. McArthur, the petitioner, and let the opponents come forward with what they have.

Mr. Walter Batchelor stated he represented the opposition in the neighborhood at the Hearing. At this time he has in his pocket a petition signed by a majority of the neighborhood withdrawing their petition of protest on the basis of an agreement between the neighborhood, Mr. McArthur who owns the land, and Mr. Howell who is buying the land, to set aside a certain area of this strip of land in question for a permanent and lasting buffer zone. The details of the proposed permanent buffer zone are being typed in the form of a contract which will be a binder on the title of the land, and it is designed to give them the type protection forming an 80-foot buffer zone which can never have a tree cut off it, and never have a building put on it, can never have a roadway through it, or any form of anything that would be defacing to the land, and it will be binding until such time as the whole neighborhood loses its characteristics as a residential area.

Councilman Dellinger asked when this agreement was made? Mr. Batchelor stated they have been in the process of negotiating it for the past week, and finally this weekend and today completed working out all of the details. Councilman Dellinger stated he talked with Mr. Batchelor last Tuesday and he told him he had not discussed this with Mr. Jack Hamilton or Mr. Allen Tate. Mr. Batchelor stated he believes it was Dennis Ledford that Mr. Dellinger talked with; however, at that time no agreement had been reached. Mr. Batchelor stated he is morally obligated to say that Mr. Ledford and four others are still opposed to withdrawing the original petition.

Councilman Whittington asked how many people in the neighborhood were not consulted about the compromise? Mr. Batchelor stated there were about three or four who could not be contacted as they were out of the city, and they did not really resolve anything until Friday night. That they contacted at least 75% of the neighborhood. Councilman Whittington asked if he did not have a meeting in the neighborhood last week without the consent or knowledge of a lot of the petitioners who were opposed to the change? Mr. Batchelor stated they had a meeting of several of them who had been very closely involved in it and discussed whether there were any grounds for compromise but had no meeting to make any decision. Councilman Dellinger asked where the other boy is today who is opposed to the change? Mr. Batchelor advised he is not here; that there are still four or five of them who are still opposed to the change or any compromise.

Mr. Devaney asked if all the people involved in the contract are residents of Ellenwood Place, and Mr. Batchelor advised all are residents of Ellenwood Place and Yorkshire Drive, and he does understand there is a separate consent or petition from those who live on Bullard Lane but he does not have the details of it. That with the exception of one house on the side of Ellenwood Place which adjoins the property in question every house has signed the agreement to the compromise. That they feel they might keep pressing further to keep the zoning residential at this time, however, their purpose is to

look forward to 2 or 5 years from now or even 10 years for a permanent buffer zone which will enable them not to have to fight this again and again.

Councilman Dellinger asked what about Miss Clanton? Mr. Batchelor stated he does not know, that he did not contact her as her property does not adjoin this, that she lives across Freeland Lane from the large tract. Councilman Dellinger asked if her name was not on the original petition, and Mr. Batchelor stated it was but she does not own any land across from the buffer zone.

Mr. Batchelor stated in the petition which is now circulating there is mention of the agreement which has been made and he will attach it to the petition he has, probably within the next 10 minutes, as they are finishing typing it now.

Mr. Warren Drye, 1317 Ellenwood Place, stated he is one of the original objectors and there is quite a bit of misunderstanding on this; there were a few meetings held and some of the gentlemen thought they could speak for the neighborhood but they do not agree on that. That they originally held a meeting after the hearing in May and agreed they would all stick to the original agreement and since then the petitioner has come back with several proposals and this last one he is in agreement with if they can't beat the thing, then this is the best policy. That he came in from vacation just last night, and refused to sign the new petition to withdraw the original petition and there are quite a few neighbors who feel the same way who are not here, but he is sure he can speak for them and say that they do not want the original petition withdrawn, and they object to the zoning change^{and} to the the proposed compromise because they feel if this property is not rezoned they can discourage the development of a Drive-in Theatre here, and they may lose but they want to stick to it, so in behalf of himself and these neighbors who aren't here simply because they just couldn't, he registers their protest and they will get another petition if it is necessary. Also, one of the neighbors who signed the petition of withdrawal called the attorney's office this morning and asked that his and his wife's names be removed from it, because he signed it under the impression that it meant a Drive-in Theatre would not now or never be put on the property.

Councilman Albea asked the City Attorney about this buffer zone being permanent and forever, if it cannot be withdrawn if all or a majority of the property owners agree at any time? He stated this buffer zone business has never appealed to him as anything permanent. Mr. Morrisey stated it can be so withdrawn.

At the request of someone, Mr. Drye stated that the neighbor who withdrew his name from the last petition is Mr. Robert Hudley and his wife. He stated further that Miss Clanton's property is a large area consisting of a block or more and at one time she owned all of this property and donated a large tract for the church and sold off all the property that their homes are now on.

Mr. Morrisey, City Attorney, stated the petition will be checked out by the Planning Board before any action is taken on the petition; the names will have to be checked against the original petition to determine if those left come within the 20% rule.

Mr. Jack Hamilton, Attorney, stated he appeared before Council two weeks ago and requested that the matter be referred to the Planning Commission and he stated the basis of his request was new evidence and they desired to submit an agreement which would create a permanent buffer zone and that negotiations had already been had with the property owners. At this time he would like to point out that all signatures on the petition were obtained by the residents, that he personally did not assist in obtaining any of the signatures and would

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like to explain that the agreement is not simply in the nature of a contract, it is an agreement in the nature of a restriction imposed on the land running from the present owner of the land and from Mr. Howell, who will purchase the land, guaranteeing to set aside over 40,000 square feet, and 80-ft strip running the full length which could not be used so long as the neighborhood retains its residential characteristics.

Councilman Dellinger asked if he would be willing to put that in the zone, that is that the zone line be set back that much? Mr. Hamilton stated they have no objection to setting the zoning line back that much but it is their opinion that to demonstrate their good faith to the residents they would be protecting them better by doing it the way they are because they can always come in and ask for a zoning change, but these residents are looking for a permanent compromise and by this method they would have a permanent compromise, they would have injunctions against it and damages against it, and all sorts of remedies. The petitioner, he feels is indebted to Mr. Batchelor and a number of his friends who have spent about a week of their time talking with these residents; that there is some sentiment against the petition but he submits this sentiment is misdirected, it is against a Drive-In Theatre and not against this petition. A Drive-In Theatre is destined to be built on this property which has already been zoned Industrial, Miss Clanton's property is in no way affected by this petition because she is across from a larger tract, which is already zoned Industrial; they are only speaking about a 180 ft. strip of which they are giving away 80 feet; the sole purpose in requesting that this property be zoned I-1 is to build a first-class instead of second-class Drive-In; there is a strip of land that goes deep down in a corner and if the rezoning is granted, Mr. Howell will be able to put his Screen down in the far corner, it will be a very large screen and a particularly fine Drive-In, whereas if the petition is not granted he will have to put the Screen up closer, actually up under the residences, and these residents who have chosen to approach the thing not emotionally but objectively have agreed that what is being proposed is a good thing for them; they will be given an 80-ft. strip of land, which the only interest in ownership the owner can exercise is paying taxes on it, they have the right to use it as they see fit, it is in perpetuity so long as their neighborhood, Ellenwood Place, retains its residential characteristics; every single property owner save one who lives on the property contiguous to this Drive-In has executed the Petition and every property owner except three, who live across the street, has executed the Petition and there was no pressure of any type brought to bear, the only contact his clients had with the residents was he attended a meeting with three of them at their specific request and this matter was discussed by the residents and they reached a specific agreement after the Planning Commission had recommended disapproval of the zoning change; that his clients certainly had no ammunition to use except reason and the fact that it was to the best interest of the residents. That they submit it is in the best interest of zoning, that they cannot combat the fact that some people object to a Drive-In, but that is not germane to the issue before you at this time.

Council decision was deferred for the recommendation of the Planning Board.

REQUEST THAT SCOFIELD ROAD BE OPENED INTO BARCLAY DOWNS ROAD TO BE STUDIED.

Mr. Bruce Wright stated that complications have arisen in his neighborhood because a street has not been opened as planned. He presented a map showing the area, and advised about two and one-half years ago when he bought property in Barclay Downs, newspaper advertising, and city maps showed Scofield Road as being open; Scofield runs from Park Road to Barclay Downs Road and intersects Barclay Downs at the entrance to the Celanese Corp.'s property; they have been as friendly as possible with the Corporation and have worked for two years with them and because this street is not open there is only one access

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road to the east from the Pickardy-Barksdale-Barclay Downs area; the City Planning Commission has advised him they would not have approved these plans had they not shown more than one access route; as shown on the map, the area to the north is blocked by Briar Creek, and the area to the south is blocked by the Celanese Corp. That in this area of Barclay Downs, Barksdale and Pickardy there are 247 families and they average about 2 cars per family; in the vacant lots there is the potential of 100 more homes that could be built, and with all the cars it provides a very serious traffic problem on Inverness Road. That the Bus Company at one time considered putting Bus Service through Scofield Road but when the street was blocked they had to give up the plan and they provide Service that comes around Park Road, Fairview and into Barclay Downs but it would serve more people if it came on Scofield Road. Mr. Wright stated further that in Inverness Street, there is a considerable difference in elevation, making poor visibility and there are 34 children who live there and it is such a steep incline on each side of the street that the increased traffic beyond causes a danger to the children.

Mr. Wright stated they appeared before Mr. Veeder about two years ago and at that time there was a representative from Celanese Corp present, the legal Counsel and Mr. Jack Delaney from the Real Estate Developers, Mr. Hoose and Mr. McIntyre, who had a suggestion that the street be opened. That briefly, Celanese stated they would prefer not to have any traffic to their building. He presented photographs of Scofield Road and the area of Celanese Corp., and stated when the road leading straight into Barclay Downs was built by the State in order to provide access to the property for Celanese, the State Highway Commission employed Blythe Bros to build the road, and the part of the road that now goes around their property was not built until later and it was then that Celanese purchased the triangular area, and they now state their right-of-way includes a small area by the triangle which is about 10 feet wider than the right of way on the road; that Mr. Delaney is of the opinion that this is State right of way because it was State funds that built the road but there is no record in the State Highway office.

Mayor Brookshire asked Mr. Morrisey if he has been approached on the problem and Mr. Morrisey stated he has discussed it with Mr. Wright, and he is probably here to state his case before Council to see if they want him to investigate the matter further.

Mr. Wright stated Mr. Hoose has made a suggestion and he understands he is giving it further study. That the developers have agreed to pay for the cost of building the inner-flow for traffic so long as it is within reason. That two years ago when they got behind this, Celanese built a turn-around right at the point where Scofield Road would have come through and curbing has been put in but that is as far as it went and nothing has been done on it for two years, and they believe the Real Estate people have been most patient in waiting and not completing their plans in hopes Scofield Road can be opened, because they realize it would be to their interest also. That they are asking the Council if Celanese will not sell it to the City, that it be condemned and the street be opened.

Mayor Brookshire stated the matter will be taken under advisement and studied by the Legal and Engineering Departments.

Mr. Wright stated further that Celanese has had this stalemated in the hands of their attorney, Mr. York, and Celanese people told them at that time they could not open the street because the Labor Union had purchased the property from Celanese and leased it to Celanese and the Labor Union owns the property as an investment.

Mr. Veeder stated they were in sympathy with the point of view Mr. Wright is expressing today when it was discussed some months ago, and the thing that

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it was bogged down on was the attitude of Celanese and their apparent refusal to make available the small strip of right of way that is necessary to open up the street.

Mr. J. J. Delaney stated the matter has been well presented by Mr. Wright, however, he would like to correct one or two things; first, the land occupied by the Celanese Building is owned by the Pension Funds of the United States Steel Company and the Carnegie Steel Company, not by the Union. Councilman Albea stated he had intended having that cleared up before the meeting was over. Mr. Delaney stated further the property was an exchange to facilitate a 100-ft right of way from the end of Barclay Downs Drive at the entrance to Celanese all the way through to Fairview Road, and the records show that Celanese Corp and its preceding negotiators showed the connection to Barclay Downs Drive but the attorneys representing Celanese Corp determined that the end toward Barclay Downs would cross the strip of land 10 or 12 feet wide, which was in their ownership, and in consequence they objected and interposed the feeling they would contest the developer proceeding with the installation of the street at the time of the development. That there has not been a recorded map of this area pending the clarification of this particular street and tie-in, as there is a question of who owns the right of way there. Among his remarks, he stated further that the developer has not decided that they will pay for the interchange, he just does not know now whether they can or cannot, it all depends on how expensive it would be and what the estimate could be from the Traffic Engineering Department.

Mayor Brookshire asked if Mr. Delaney as a Real Estate man has an opinion as to the value of the 10 foot strip that the City would need to acquire? Mr. Delaney stated it would be difficult to decide this, as its utility is quite limited.

Mr. Veeder asked Mr. Delaney if he gathers from what he said that the private property starts from the beginning with the arc on Barclay Downs Drive so that there may be something in addition to the 10 foot strip to be obtained? Mr. Delaney replied that is correct, for in the interchange plan that is now under consideration one would have to cross the triangle to get to the other side in order to have left-hand friction to make the turn in and out. That the whole arc is the property of Celanese out to the edge of the road where they gave the 100 foot right of way.

PERMIT AUTHORIZED ISSUED HARRY L. SCHWARTZ FOR THE CONSTRUCTION OF BUILDING AT 700 WEST 3RD STREET.

Mr. Harry Schwartz appeared before Council advising he operates a Scrap Processing Plant at the corner of 601 West 3rd and 700 West 3rd Streets, and has made application for a permit to construct a building on the property at 700 West 3rd Street facing West 3rd, and found there is a 50-foot setback restriction there; that when the Railroad changeover comes into being, West 3rd Street will be closed off entirely and Mr. Cheek and Mr. Veeder have recommended that the restriction be lifted and he requests Council approval so that the building may be constructed.

Councilman Whittington asked Mr. Veeder if he pursued the question he raised last week as to the possibility of locating the building on the property beyond the setback. Mr. Veeder asked Mr. Schwartz if he has been contacted by anyone from the City regarding this? Mr. Schwartz stated it will not work out, as there is not sufficient space unless they have the 50 foot setback; he stated further the only reason they are having to put up the building is the place they are located at 601 West 3rd Street will be closed off from the remainder of their property when the Railroad tracks are raised, otherwise they would not be putting up a building.

Councilman Smith moved that the permit be issued for the construction of the building. The motion was seconded by Councilman Dellinger and unanimously carried.

ACQUISITION OF RIGHT OF WAY FOR SANITARY SEWER LINE TO SERVE HAMPSHIRE HILLS.

Councilman Dellinger moved approval of the acquisition of property 10' x 70' from Joe S. Plemmons and wife at \$70.00 and 10' x 80' from James C. Evans and wife at \$40.00, for use as right of way for sanitary sewer line to serve Hampshire Hills. The motion was seconded by Councilman Albea, and unanimously carried.

LEASE OF AIRPORT BUILDING NO. 244 TO LANCE, INC.

Upon motion of Councilman Bryant, seconded by Councilman Whittington, and unanimously carried, Airport Building No. 244 was authorized leased to Lance, Inc., for a term of one year effective June 14, 1962, at a monthly rental of \$65.00.

SUPPLEMENTARY CONTRACT WITH SEABOARD AIRLINE RAILWAY FOR INSTALLATION OF ADDITIONAL WATER MAINS IN HOSKINS INDUSTRIAL AREA.

Councilman Dellinger moved approval of a supplementary contract with the Seaboard Airline Railway Company, to contract dated October 30, 1961, for the installation of 360 feet of additional water mains and one hydrant in the Hoskins Industrial Area, outside the city limits, at an estimated cost of \$3,000.00. All costs to be borne by the Applicant, who will dedicate the mains to the City without cost or further agreement upon acceptance of the work by the City. The motion was seconded by Councilman Thrower, and unanimously carried.

CONSTRUCTION OF SANITARY SEWER MAIN AUTHORIZED IN WINTERFIELD PLACE AND DRIFTWOOD PLACE.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, the construction of 1,956 feet of sanitary sewer mains was authorized in Winterfield Place and Driftwood Place, at the request of Mr. A. V. Blankenship, at an estimated cost of \$4,995.00. All costs to be borne by the Applicant, whose deposit of the entire cost will be refunded as per terms of the contract.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON JULY 16TH ON PETITIONS NUMBERED 62-25 THROUGH 62-31 FOR CHANGES IN ZONING CLASSIFICATIONS AND THE PUBLICATION OF NOTICE THEREOF.

Upon motion of Councilman Albea, seconded by Councilman Thrower, and unanimously carried, a Resolution Providing for Public Hearings on July 16th on Petitions Numbered 62-25 through 62-31 for Changes in Zoning Classifications and the Publication of Notice Thereof, was unanimously adopted. The resolution is recorded in full in Resolutions Book 4, at Page 199.

SPECIAL OFFICER PERMITS AUTHORIZED ISSUED TO EMILE DELMOTT AND C. O. HALL FOR USE ON PREMISES OF CHARLOTTETOWN MALL.

Motion was made by Councilman Bryant, seconded by Councilman Dellinger, and unanimously carried, authorizing the issuance of a Special Officer Permit to Mr. Emile Delmott, 2109 Laburnum Avenue and Mr. C. O. Hall, Fort Mill, S. C., for use on the premises of Charlottetown Mall.

TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Thrower, 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 Mrs Ethel W. Nance, for Graves 5 and 6, Lot 15-B, Section 3, Evergreen Cemetery, at \$120.00.
- (b) Deed with Mrs Carl Arthur Weston, for Graves 7 and 8, Lot 123, Section 3, Evergreen Cemetery, at \$120.00.
- (c) Duplicate deed to Mrs Louise Melton Phillips, for Lot 17-Fraction, Section Q, Elmwood Cemetery, at \$3.00.

CONTRACT AWARDED CONCRETE PRODUCTS COMPANY FOR WATER METER BOXES.

Councilman Dellinger moved the award of contract to the only bidder, Concrete Products Company for 4,500 Water Meter Boxes, as specified, at their bid price of \$23,271.30. The motion was seconded by Councilman Bryant, and unanimously carried.

CONTRACT AWARDED THE HUB UNIFORM COMPANY FOR 100 RAINCOATS WITH CAP COVERS.

Upon motion of Councilman Whittington, seconded by Councilman Dellinger, and unanimously carried, contract was awarded the low bidder, The Hub Uniform Company, for 100 Blauer Raincoats with Cap Covers, as specified, at their bid price of \$2,779.97.

The following bids were received:

The Hub Uniform Company	\$2,779.97
Service Uniform Company	2,935.50
Southern Rubber Company, Inc.	\$2,312.90
(Bid did not meet specifications)	

ORDINANCE NO. 104 REDUCING THE NON-MONUMENT SECTION OF EVERGREEN CEMETERY ADOPTED.

Upon motion of Councilman Bryant, seconded by Councilman Whittington, and unanimously carried, Ordinance No. 104 Reducing the Non-Monument Section of Evergreen Cemetery was unanimously adopted. The ordinance is recorded in full in Ordinance Book 13, at Page 272.

AGREEMENTS AUTHORIZED WITH LULA C. HARGETT, BEAUMERT H. AND JOHN W. WHITTON AND EDWARD RAY BUMGARNER FOR THE MODIFICATION OF PROPERTY REQUIRED BY VERTICAL REALIGNMENT OF STREETS ON THE WEST SIDE GRADE CROSSING ELIMINATION PROJECT.

Upon motion of Councilman Alba, seconded by Councilman Thrower, and unanimously carried, the following agreements were authorized for the modification of property required by the vertical realignment of streets on the West Side Grade Crossing Elimination Project:

(1) Lula C. Hargett.

Property located on the south side of West Fourth Street adjacent to the Southern Railway right of way. A one and one-half story brick building is involved, now occupied by Charlotte Florist Company. The necessary building alterations and underpinning foundations is estimated to cost \$4,970.00. In addition it is recommended that the owner be paid \$2,500.00 as damages for:

1. A new six-step entrance into the building and accompanying loss of floor space.
2. The interior construction of a ramp into the front of the building for loading and unloading, requiring approximately an 8% grade.
3. Loss of business caused by construction work to the building. It is estimated that ingress and egress for trucks and pedestrians will be eliminated for approximately one month.

(2) Beaumert H. and John W. Whitton.

Property located next to the building mentioned above. The necessary alterations, including the underpinning of foundations and revisions to the entrance driveway, are estimated to cost \$2,875.00. No payment for damages is involved.

(3) Edward Ray Bumgarner.

Property located on the north side of West Trade Street between the Southern Railway right of way and North Cedar Street. The agreement provides for the necessary grading and paving to make the property conform to the realignment of Trade Street. This is estimated to cost \$1,610.00. In addition it is recommended that the owner be paid \$500.00 for work required on his property in order to make the lot conform to the vertical realignment. Payment will cover loss of business caused by work that has to be done on the owner's property.

BUDGET SESSION DATES FIXED.

Mayor Brookshire reviewed the dates suggested for budget sessions to begin at 7 p.m. on Wednesday and again Thursday afternoon at 1 o'clock and have dinner brought in and continue into the evening. The Council concurred in the dates.

OPTION FORMS ON REAL ESTATE DEALS REQUESTED USED AND COUNCIL BRIEFED ON PROPOSED LAND PURCHASES.

Councilman Smith called attention to the real estate contract for the landfill garbage disposal site which it developed was not in fact a contract; he stated he would like such proposals brought in on option forms binding the owner when the Council acts on them, such forms being used by most corporations. He stated the option form will not obligate the City until it is acted on by the Council; that what we had in the landfill case was an unexecuted purchase contract and the agent's word that he could get it signed by the owner, and he certainly hopes there will not be a recurrence of this situation.

Mr. Veeder stated the Real Estate Agent with whom the City dealt was acting for the owner and thought he had more authority than he actually had.

Councilman Dellinger suggested that, in the future, particularly on landfill site, the Council be briefed on what is being done and if necessary appoint a Council Committee to look the property over and thereby avoid any controversy with the citizens of the area.

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CITY MANAGER DIRECTED TO REQUEST SOUTHERN RAILWAY TO REPAIR CROSSING AT STATESVILLE AVENUE.

Councilman Whittington requested that the City Manager contact the Southern Railway Company relative to repairing their crossing on Statesville Road.

CITY ATTORNEY ADVISES ATTORNEY FOR BREVARD MYERS TAKES POSITION THAT TELEGRAM FILED IN PROTEST OF ZONING CHANGE REQUESTED BY E. P. NISBET COMPANY CONSTITUTES TWENTY PERCENT OF PROPERTY OWNERS.

Mr. Morrisey, City Attorney, advised he has been requested by letter received this afternoon from Mr. Jake Wade, Attorney for Mr. Brevard Myers, to bring to Council's attention their position with respect to rezoning of property owned by E. P. Nisbet & Company. That when the matter first came up it was indicated that the 20% rule applied and six votes would be required, and the following week he corrected that ruling on the basis that we found no protest in writing. Subsequent to that time we did discover a Telegram which had been received in the Manager's Office and it is the position of Mr. Myers, through his Attorney, that the Telegram constitutes the 20% protest. That he has asked Mr. Wade to give him a letter, together with the authority he might be able to find on that; that the other parties have already done it, and the only reason he brings this to Council's attention at this time is because Mr. Wade has requested that he do so. That as soon as he is furnished with the written memorandum of authorities, he will advise Council further; that it is his present opinion that the action of the Council must stand.

WALTER TOY AND EVERETT SUDDRETH APPOINTED TO THE PLANNING BOARD.

Councilman Dellinger suggested that the appointments be made to fill the vacancies on the Planning Board and the Community College Board of Trustees.

Mayor Brookshire advised that at the meeting two weeks ago Councilman Albea placed in nomination Mr. Walter Toy and Mr. John Delaney to succeed themselves on the Planning Board, for terms of three years.

Councilman Dellinger placed in nomination Mr. Everett Suddreth to the Planning Board, for a term of three years from June 30, 1962.

The vote was taken on the appointment of Mr. Toy to the Planning Board, and carried by the following recorded vote:

- YEAS: Councilmen Albea, Bryant, Jordan and Smith.
- NAYS: Councilmen Dellinger, Thrower and Whittington.

The vote was taken on the appointment of Mr. Delaney to the Planning Board and lost by the following recorded vote:

- YEAS: Councilmen Albea, Smith and Thrower.
- NAYS: Councilmen Bryant, Dellinger, Jordan and Whittington.

The vote was taken on the appointment of Mr. Suddreth to the Planning Board and carried by the following recorded vote:

- YEAS: Councilmen Dellinger, Jordan, Thrower and Whittington.
- NAYS: Councilmen Albea, Bryant and Smith.

Councilman Albea stated he is not against Mr. Suddreth at all, he just has his own candidate.

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Councilman Smith stated he thinks the Council has just taken from the Planning Board one of the finest men they have had in a long time, as Mr. Delaney's background and education and his practical approach was of great benefit to the Board and the City and he is sorry to see it happen.

J. MURREY ATKINS AND JOHN DELANEY APPOINTED TO THE CHARLOTTE COMMUNITY COLLEGE BOARD OF TRUSTEES.

Councilman Whittington stated he has told Mr. Bob Lassiter that he cannot support him for reappointment to the College Board of Trustees because he is on the Airport Board. Councilman Smith stated he thinks it is agreed that the City will not have a man serving on two Boards at one time, as we have enough power in Charlotte to spread it around.

Councilman Smith moved the nomination of Mr. Delaney to the College Board of Trustees for a term of six years.

Councilman Bryant asked that the appointment be postponed until next week if agreeable.

Councilman Dellinger moved the nomination of Mr. Atkins to the College Board of Trustees to succeed himself for a term of six years.

Councilman Smith stated that under the circumstances since he is sponsoring Mr. Delaney for appointment and he will be absent next week as a personal privilege he asks that the appointments be made today. The motion was seconded by Councilman Jordan, and carried.

The vote was then taken on the appointments of Mr. Delaney and Mr. Atkins, and carried by the following recorded vote:

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

APPOINTMENTS OF MR. SUDDRETH AND MR. TOY TO PLANNING BOARD MADE UNANIMOUS.

Councilman Albea moved that the appointment of Mr. Suddreth and Mr. Toy to the Planning Board be made unanimous. The motion was seconded by Councilman Whittington, and unanimously carried.

APPOINTMENT OF MR. DELANEY TO COMMUNITY COLLEGE BOARD OF TRUSTEES MADE UNANIMOUS.

Councilman Bryant moved that the appointment of Mr. Delaney to the Community College Board of Trustees be made unanimous. The motion was seconded by Councilman Dellinger, and unanimously carried.

RESIGNATION OF J. P. ROGAN FROM AIRPORT ADVISORY COMMITTEE ACCEPTED WITH REGRET.

Mr. Veeder presented a letter from Mr. John Ervin, Chairman of the Airport Advisory Committee, enclosing the resignation of Mr. J. P. Rogan, and stating the resignation is dated March 15th but he has delayed forwarding it until Mr. Rogan moved his family from Charlotte to Tulsa, and asking that the resignation be brought to the attention of Council so they may proceed with the appointment of a replacement.

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Councilman Dellinger moved the acceptance of the resignation of Mr. Rogan with regret and that he be written and thanked for the fine service he rendered the city. The motion was seconded by Councilman Albea, and unanimously carried.

PAYMENT AUTHORIZED TO GEORGE GOODYEAR COMPANY FOR SANITARY SEWER LINES.

Upon motion of Councilman Albea, seconded by Councilman Bryant, and unanimously carried, George Goodyear Company was authorized reimbursed for sanitary sewer lines taken over by the city as recommended by the City Manager and City Attorney, in the total amount of \$97,931.29, with \$62,500.00 budgeted this year for the purchase of sewer lines to be paid at this time and the balance of \$35,431.29 to be paid during the next fiscal year.

ADJOURNMENT.

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



Lillian R. Hoffman, City Clerk