

March 25, 1963
Minute Book 43 - Page 27

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 25, 1963, at 3 o'clock p.m., with Mayor Brookshire presiding, and Councilmen Albea, Bryant, Dellinger, Jordan, Smith, Thrower and Whittington present.

ABSENT: None.

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INVOCATION.

The invocation was given by Rabbi Israel J. Gerber of Temple Beth El.

MINUTES APPROVED.

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

PROMOTION OF USE OF VOTING MACHINES BY CITY.

Mr. S. W. Pearson appeared before Council promoting the purchase of voting machines by the Council for use in city elections. He stated that machines are used in Buncombe, Durham, Edgecomb, Johnston, Lee, Wake and Wayne Counties with great success and they are well liked. He quoted from a statement by the Chairman of the Election Board of Lee County that their election cost has been reduced 25%, time reduced 75%, cost per voter .40¢, there have been no recounts, no disputes, no spoiled ballots and the reaction of the public to the use of machines has been good. In reply to questions by Councilman Dellinger, Mr. Pearson stated he is not here today to quote prices nor sell machines, but to promote the use of voting machines by the City, that his company would, of course, be happy to submit a bid should the Council ask for bids, and they would be glad to send their machine for Council to see. He stated they guarantee their machine to be 100% accurate. That he understands the Council agreed to go along with the County at one time on the purchase of machines, and if they would like the latest information on machines, his company would be happy to mail it to them. Mr. Pearson stated he is speaking of manually operated machines approved by the State of North Carolina.

PETITION NO. 63-12 FOR CHANGE IN ZONING OF FOUR LOTS FRONTING ON SOUTHEAST SIDE OF GARDEN TERRACE, DENIED.

Upon motion of Councilman Albea, seconded by Councilman Whittington, and unanimously carried, Petition No. 63-12 by George Goodyear Company for a change in zoning from R-6MF to R-6MFH of four lots fronting 200 feet on the southeast side of Garden Terrace, was denied as recommended by the Planning Commission.

ORDINANCE NO. 168-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING ZONING OF A LOT ON THE SOUTH SIDE OF TUCKASEEGEE ROAD, WEST OF TODDVILLE ROAD, ADOPTED.

Motion was made by Councilman Dellinger, seconded by Councilman Jordan, and

unanimously carried, adopting Ordinance No. 168-Z Amending Chapter 23, Section 23-8 of the City Code changing the zoning from R-12 to R-9MF of a lot on the south side of Tuckaseegee Road, about 400 feet west of Toddville Road, on petition of Mr. Reginald L. Laye, and recommended by the Planning Commission. The ordinance is recorded in full in Ordinance Book 13, at Page 404.

DECISION ON PETITION NO. 63-14 FOR CHANGE IN ZONING OF FOUR LOTS FRONTING ON WEST SIDE OF OAKDALE ROAD, BEGINNING 75 FEET SOUTH OF CORA STREET AND EXTENDING BACK TO RONALD STREET, DEFERRED.

Councilman Thrower moved that decision on Petition No. 63-14 by W. L. and Eldora T. Byrum and W. H. Hollingsworth, for change in zoning from R-9 to B-1 of 4 lots fronting 150 feet on the west side of Oakdale Road, beginning 75 feet south of Cora Street and extending back to Ronald Street, be deferred at the request of the Planning Commission for their further study. The motion was seconded by Councilman Jordan, and unanimously carried. The City Clerk advised that the petition filed by the Attorney representing the residents opposing the change has been checked by the Planning Commission, who advise it is signed by 48 persons, representing 27 parcels of land, with 100% of the owners on one adjoining side signing the petition, therefore the 20% rule will apply and a 3/4 vote of Council will be required to rezone the property.

PETITION NO. 63-15 FOR CHANGE IN ZONING OF AN AREA ON THE EAST SIDE OF PARK ROAD, EXTENDING APPROXIMATELY 250 FEET SOUTH OF SENECA PLACE TO SUGAW CREEK, DEFERRED FOR ONE WEEK.

Councilman Albea moved that Petition No. 63-15 by George S. Goodyear and eight others for change in zoning from R-6MFH to O-15 of an area on the east side of Park Road, extending approximately 250 feet south of Seneca Place to Sugaw Creek, be denied as recommended by the Planning Commission. The motion was seconded by Councilman Bryant.

Councilman Smith offered a substitute motion that the petition be approved. The motion was seconded by Councilman Jordan.

Councilman Thrower asked if this request has not been before the Council prior to this time? Councilman Whittington stated the Norris property adjacent to this property was previously requested rezoned. Councilman Thrower asked if the 2 year policy does not apply?

Councilman Smith stated his reason for making the substitute motion is that he was convinced more or less by the argument of the Attorney for Mr. Goodyear at the last meeting that apartments are not ideal for this narrow strip of land along the creek, the creek can be offensive and is a hazard and there is a Super Market across the street, and it would seem to him that the Office classification would be more appropriate.

Councilman Whittington stated he thinks this is one place in Charlotte where you could absolutely isolate the O-15 classification.

Councilman Bryant stated the reason he voted to disapprove the change to O-15 is most business areas should be around an intersection, contiguous to each other, and this, he thinks, by the fact that the Super Market was there before the zoning took place, will make it much easier to zone Park Road on into town as Business and he would, personally, prefer to keep it under the condition it is at present.

March 25, 1963
Minute Book 43 - Page 29

The City Manager advised he has just called Mr. McIntyre, Planning Director, who states this is a duplicate request for rezoning but he does not construe it to come within the 2 year rule because it was originally a protest to the new zoning ordinance and not a proposed amendment to the Zoning Ordinance.

Councilman Thrower stated this is exactly the same property, and the only objection he has to the rezoning is the people across the street who called him and said if this property is rezoned then they want their property rezoned the same, and so where is one going to stop?

Councilman Jordan stated if this is the same property, it has been a year or two since he has seen it, and he would like action deferred for a week so that he could look at it.

Councilman Smith withdrew his substitute motion to approve the petition, with the approval of the second.

Councilman Jordan then offered a substitute motion that Council action be deferred one week. The motion was seconded by Councilman Thrower, and carried by the following recorded vote:

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

COUNCILMAN SMITH ABSENT FROM COUNCIL CHAMBER.

Councilman Smith left the Council Chamber temporarily at this time, and was absent from the meeting until his return as noted herein.

ORDINANCE NO. 169-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING ZONING OF A 62.48 ACRE TRACT OF LAND ON THE NORTH SIDE OF WEST BOULEVARD BETWEEN OLD STEELE CREEK ROAD AND SOUTHERN RAILWAY CROSSLINE, ADOPTED.

Motion was made by Councilman Dellinger, seconded by Councilman Albea, and unanimously carried, adopting Ordinance No. 169-Z Amending Chapter 23, Section 23-8 of the City Code changing the zoning from I-1 to B-2 and R-6MFH and R-6 of a 62.48 acre tract of land on the north side of West Boulevard between Old Steele Creek Road and the Southern Railway Crossline extending northward to the vicinity of Seymour Drive, upon petition of Ervin Construction Company and recommended by the Planning Commission. The ordinance is recorded in full in Ordinance Book 13, at Page 405.

ORDINANCE NO. 170-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING ZONING OF 157.206 ACRE TRACT OF LAND ON THE WEST SIDE OF OLD PINEVILLE ROAD, BEGINNING ABOUT 200 FT. SOUTH OF GRIFFITH ROAD AND EXTENDING ABOUT 3,600 FEET TO THE WEST, ADOPTED.

Upon motion of Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, Ordinance No. 170-Z was adopted amending Chapter 23, Section 23-8 of the City Code, changing the zoning from I-2 and O-15 to B-2 and R-6MFH and R-6 of a 157.206 acre tract of land on the west side of Old Pineville Road, beginning about 200 feet south of Griffith Road and extending about 3,600 feet to the west, upon petition of Ervin Construction Company, and recommended by the Planning Commission. The ordinance is recorded in full in Ordinance Book 13, at Page 406.

ORDINANCE NO. 171-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING ZONING OF TRACT OF LAND FRONTING ON WEST TRADE STREET MIDWAY BETWEEN JUDSON AVENUE AND BELLHAVEN BOULEVARD, ADOPTED.

In connection with the petition of Mr. W. A. Wardell for change in zoning from R-6MF to I-2 of property fronting 150 feet on West Trade Street and from B-2 to I-2 of property fronting 450 feet on Rozzells Ferry Road, Councilman Dellinger moved that the zoning on the property fronting 150 feet on West Trade Street be changed from R-6MF to B-2 and the property fronting 450 feet on Rozzells Ferry Road remain zoned B-2, as recommended by the Planning Commission. The motion was seconded by Councilman Bryant, and unanimously carried. The ordinance is recorded in full in Ordinance Book 13, at Page 407.

SETTLEMENT OF CLAIM OF MISS SALLY ANNE STAPLES.

Councilman Thrower moved approval of the payment of claim of Miss Sally Anne Staples, in the amount of \$82.58, for medical bills and other expenses allegedly incurred as a result of falling into a water meter box on which the lid was improperly secured, on Park Drive on November 6, 1962. The motion was seconded by Councilman Whittington, and unanimously carried.

ISSUANCE OF RENEWAL OF SPECIAL OFFICER PERMITS AUTHORIZED.

Upon motion of Councilman Jordan, seconded by Councilman Albea, and unanimously carried, the issuance of a Special Officer Permit to Mr. Edwin T. Lewis, 1715 Irma Street, for use on the premises of Southern Knitwear Mills, and the renewal of Permit to Mr. Frank W. Haas for use on the premises of Elmwood, Evergreen, Pinewood, Fifth Street and Oaklawn Cemeteries were authorized.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON APRIL 22ND ON PETITIONS FOR ZONING CHANGES AND THE PUBLICATION OF NOTICE THEREOF, ADOPTED.

Upon motion of Councilman Dellinger, seconded by Councilman Bryant, and unanimously carried, a Resolution Providing for Public Hearings on April 22nd on Petitions numbered 63-18 through 63-24 was unanimously adopted. The resolution is recorded in full in Resolutions Book 4, at Page 283.

TRANSFER OF CEMETERY LOT.

Councilman Jordan moved that the Mayor and City Clerk be authorized to execute a deed with Mrs Florence M. Reid, for Lot 368, Section 6, Evergreen Cemetery, at \$240.00. The motion was seconded by Councilman Albea, and unanimously carried.

COUNCILMAN SMITH RETURNED TO COUNCIL CHAMBER.

Councilman Smith, who had previously left the meeting temporarily, returned to the Council Chamber at this time.

SALE AND REMOVAL OF TIMBER TO MCCLURE TIMBER COMPANY, INC.

Motion was made by Councilman Dellinger, seconded by Councilman Albea, and

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March 25, 1963
Minute Book 43 - Page 31

unanimously carried, authorizing the sale of 189,000 F.B.M. of Timber as specified from right of way for the proposed new runway at Douglas Municipal Airport, to the highest bidder, McClure Timber Company, Inc., on a unit price basis, at their bid price of \$5,052.60.

The following bids were received:

McClure Timber Company, Inc.	\$ 5,052.60
Morgan Sawmills	4,562.00

CONTRACT AWARDED WESTINGHOUSE ELECTRIC SUPPLY COMPANY FOR 50 STREET LIGHTING FIXTURES.

Upon motion of Councilman Jordan, seconded by Councilman Thrower, and un-animously carried, contract was awarded the low bidder, Westinghouse Electric Supply Company, for 50 Street Lighting Fixtures, as specified, on a unit price basis, at their bid price of \$3,586.51.

The following bids were received:

Westinghouse Electric Supply Co.	\$ 3,586.51
General Electric Supply Company	3,677.92
Mill-Power Supply Company	3,689.53
Graybar Electric Company, Inc.	3,698.62
Wilmington Electric Supply Co.	3,738.90

ACQUISITION OF PROPERTY OF MARSH REALTY COMPANY FOR RIGHT OF WAY FOR KENILWORTH AVENUE EXTENSION PROJECT.

Motion was made by Councilman Whittington, seconded by Councilman Albea, and unanimously carried, authorizing the acquisition of 40,464 square feet of property located between Ordermore Avenue and Park Road, from Marsh Realty Company, in exchange for 3,228 square feet of property owned by the City on Ordermore Avenue.

COUNCIL VOTES TO INVITE SOUTHERN CONFERENCE TO BRING SOUTHERN CONFERENCE BASKET BALL TOURNAMENT TO CHARLOTTE NEXT YEAR.

Councilman Bryant offered a resolution inviting the Southern Conference to bring the Southern Conference Basketball Tournament to Charlotte next year, as there is a possibility that we can get it if there is evidence by the City and the people interested in such that we want it. He stated he has discussed this with the Auditorium-Coliseum Manager and Authority and they want it very much. The motion was seconded by Councilman Albea, and unanimously carried.

DISCUSSION OF RESTRICTION AGAINST POLICE PROVIDING PROTECTION FOR VEHICULAR TRAFFIC ON PRIVATE PROPERTY.

Councilman Jordan advised that at a Shopping Center Parking Lot, a traffic accident occurred with two ladies involved and the Police Department was called by one of them to come out and make some decision regarding it, and they stated they do not go out on calls on private property, he asked the City Manager if they are not permitted to do so? The City Manager advised we do not have authority to investigate a vehicular accident that happens on private property, that it would be a matter between the Store and the persons

involved in the accident. That they get other types of protection but the City is restricted in the terms of traffic control on private property.

Councilman Dellinger stated he has always contended that the City should police these areas the same as other places inside the city limits. He asked the City Attorney if there is no way that these people can have police protection? Mr. Morrissey stated there is none to his knowledge.

Councilman Dellinger than asked if the City could not have the legislature pass a law to give overall police protection to citizens of the city? Mr. Morrissey stated there is nothing that occurs to him.

BILL AMENDING CHARTER OF CITY OF CHARLOTTE TO APPROPRIATE ANNUALLY FUNDS FOR THE PURPOSE OF ADVERTISING THE ADVANTAGES OF CHARLOTTE TO ATTRACT BUSINESS ETC TO LOCATE IN CHARLOTTE, ADOPTED.

Councilman Whittington stated Council has the Bill to Amend Chapter 366 of the Public-Local Laws of North Carolina, pertaining to the request of the Chamber of Commerce that the Council make funds available on a yearly basis for advertising to lure new business to Charlotte and he is wondering if anyone objects to the wording of the Bill?

Councilman Smith called attention to the wording of the Bill - "no expenditure of such funds shall be made unless and until specific advertising and the cost thereof is first submitted to and approved by the City Council", he asked if this has been cleared by the City Attorney or City Manager with the Chamber of Commerce? Mr. Morrissey advised the language was taken from the case which the Supreme Court has decided and the resolution was very carefully drafted to come within the purview of that decision so there could be no legal question about it. Councilman Smith stated that particular wording should be called to the attention of the Chamber of Commerce before it is submitted to the Legislature. That he just thinks something like this should be approved by the Chamber before it is sent to Raleigh, that he should think that perhaps some of this money might be used for travel expense. Councilman Bryant asked what about the angle of the city? He believes a like amount of funds has been appropriated by the County, is this to be limited just to the City and theirs to the County?

Councilman Smith asked if the County is going to present a separate Bill? He stated he thought we were going to meet with them and draw up a joint bill, that he certainly favors doing that, giving the City and County permissive legislation.

Councilman Whittington moved that the Bill Amending the Charter of Charlotte be approved. The motion was seconded by Councilman Jordan.

Councilman Smith stated here we are doing this jointly with the County, then why should we take unilateral action without knowing if the County is doing the same thing? Why send two different Bills up to Raleigh when it is all on the same subject, it just doesn't make sense to him.

Councilman Dellinger asked the City Manager if he would call Mr. Ruff, County Attorney, and ask him if he has drawn a similar Bill for the County? The City Manager did so and advised that Mr. Ruff is of the opinion that the County perhaps does not need legislation for this purpose.

The vote was then taken on the motion to approve the Amendment, and carried unanimously.

REQUEST FOR LIST OF ATTORNEYS FROM WHICH TO ASSIGN CITY'S SPECIAL WORK.

Councilman Whittington asked the City Attorney when he will give Council the list of attorneys to do the City's work when needed? He stated he realized that Mr. Morrisey is working on the list through a Bar Committee but the other 200 attorneys are wondering when the Council is going to do something about the question and it was pointed out to him and other Councilmen at the Courthouse last Monday that they are tired of the City's work going to two or three people and they want some of it too. Therefore, he would like to ask Mr. Morrisey to give Council the list without delay so they can give this work out to different attorneys.

Mr. Morrisey asked if Mr. Whittington has any special instructions as to how he could obtain the list? Mr. Whittington advised he gave the City Manager a list one time before, that he sees nothing difficult about it, its a matter of taking the attorneys in alphabetical order and listing them and ask the first one if he will look up a title and if he doesn't want to do it then go on to the next one.

Councilman Dellinger stated he brought this up a long time ago and Mr. Morrisey talked with Mr. Cansler and he was of the opinion that Mr. Cansler was going to give us a list - he asked if Mr. Morrisey has talked with Mr. Cansler? Mr. Morrisey stated he has not heard back from him. Councilman Dellinger stated he thinks Mr. Cansler should be contacted and asked if he has the list, and Mr. Morrisey said he would do so.

ALBERT REID BLACK AND RUSSELL JONES TO BE PRESENTED AWARD FOR SAVING LIFE OF CARLOS ESPIN.

Councilman Albea moved that Albert Reid Black and Russell Jones, two young men who saved the life of Carlos Espin, age five, from his burning home be presented a Resolution from the Mayor and Council and any other Citation, at the Council Meeting next Monday. The motion was seconded by Councilman Thrower, and unanimously carried.

SETTLEMENT OF CLAIM OF G. G. SMITH FOR DAMAGES TO CAR.

The City Attorney presented a claim by Mr. G. G. Smith, in the amount of \$84.85, for damages to his car from running over a manhole with a warped cover, which was not properly sealed which should have been done as routine maintenance, and he recommended payment. Upon motion of Councilman Albea, seconded by Councilman Whittington, and unanimously carried, the claim was authorized settled as recommended.

CHANGE ORDERS NO. 2 AND NO. 3 IN CONTRACT WITH BLYTHE-CROWDER FOR CONSTRUCTION OF WEST SIDE GRADE CROSSING ELIMINATION PROJECT, AUTHORIZED FOR PAYMENT.

The City Manager presented two Change Orders in the Blythe-Crowder Construction Contract of the West Side Grade Crossing Elimination Project, to reduce the cost of the contract price by a total of \$2,156.64:

Change Order No. 2	For substituting concrete wall for a reinforced concrete crib wall, at a net saving of	\$1,645.72
Change Order No. 3	For substituting a new span for that portion of the existing Sixth Street span to be jacked up into a new location, at a net saving of	\$ 510.92

He recommended approval of the two Change Orders stating he wants to point out, however, that there is some additional design work involved, which will have an effect on the Consulting Engineer's fee to about \$2,000.00, making the net decrease in the total cost with these Change Orders of \$156.64. Councilman Smith moved approval of Change Orders, which was seconded by Councilman Bryant, and unanimously carried.

CONTRACT AWARDED FROEHLING & ROBERTSON, INC. FOR INSPECTION TESTS FOR COMPACTION OF RAILWAY EMBANKMENTS AND SUB-BALLAST FOR WEST SIDE GRADE CROSSING ELIMINATION PROJECT.

The City Manager recommended approval of the proposal of Froehling & Robertson, Inc., for inspection tests for compaction of railway embankments and sub-ballast for the West Side Grade Crossing Elimination Project. He advised this is not additional work, this is work that has been included in all estimates, and is about \$1,100 under the estimate.

Councilman Dellinger moved the award of contract to Froehling & Robertson, Inc., as recommended, at their low bid of \$9,880.00. The motion was seconded by Councilman Jordan, and unanimously carried.

The following bids were received:

Froehling & Robertson, Inc.	\$ 9,880.00
Law Engineering Testing Company	12,740.00
Pittsburg Testing Laboratory	18,200.00

URBAN REDEVELOPMENT BROOKLYN PROJECT AREA NO. 3 APPROVED.

At the conference session prior to this meeting, the City Manager recommended approval of the Urban Redevelopment Brooklyn Project Area No. 3, and advised that the North-West Expressway right of way will utilize about 50% of Area No. 3. He further advised that in view of the relationship of the Expressway and the Redevelopment Program in Area 3, consideration needs to be given to how the property required for the two programs will be acquired, and outlined the factors to be weighed in acquiring the land for both programs at the same time against those if the property is acquired for each program independently of the other program. His recommendation was that the Redevelopment Commission be authorized to proceed with Project No. 3 so that the property required for both programs will be acquired by that Agency.

At the request of the City Manager, Mr. Sawyer, Director of the Redevelopment Commission was now present to answer Council's questions regarding the Project and to comment on the prior discussion of the subject. Mayor Brookshire advised Mr. Sawyer that the earlier discussion had to do mainly with the regulations by which redeveloped land in Area 3 will be offered to the public and/or how it might be procured by the local governments for their usage.

Mr. Sawyer advised that under the N. C. Redevelopment Law they had to advertise the land and sell it to the highest bidder, with the exception that they can negotiate with public bodies, that is any political entity supported by tax funds; that in the case of the Expressway they would buy all of the land and then sell it to the City at the cost of acquisition and clearing the land, and would absorb the rest of the cost into the general budget cost, and in the final analysis the City would pay 1/3 of the cost. There would be 2/3 of the cost of savings from such things as appraisals, negotiations, title work and any court cost that might be involved.

Councilman Smith stated he is not familiar with the procedure for selling to governmental agencies, whether a price had to be set, if the land had to be appraised before and after it was acquired and the usage of it. That from what Mr. Sawyer says, the City has to pay the Redevelopment Commission cost after they go to the Courts or wherever they go. Mr. Sawyer advised this is only on land involved in the Expressway or any street that has no relationship to the Project. Councilman Smith stated the point he is making is the City can buy this property across the street cheaper because of government help but for highway purposes there is a different set of rules. That he was hoping the highways could be treated the same way and the City would have an actual savings on the 2/3 and 1/3. He asked what Mr. Sawyer would do if they bought a whole lot and the City needs only half of it for right of way? Mr. Sawyer replied that they would assign values on it on a percentage basis; that they would act as right-of-way agent for the City for the highway and the City would pay them whatever it cost to get the right-of-way, plus the cost of demolition. Councilman Smith asked if the City should forget about the expressway now and Project No. 3 was set up and approved, then at a later date the Council wanted a part of it for the expressway, what would they do? Mr. Sawyer stated they have to specify what the land will be used for in their Plans. Councilman Smith stated it seems to him that perhaps Urban Redevelopment would have to pay more for the City's right-of-way than the City would itself if we set out to get the right of way ourselves.

Mayor Brookshire stated it appears that Phase 3 of the Brooklyn Project at the moment is worth less than it will be after it is cleared, contemplating the new use of the area; that it is residential now and will be commercial. Councilman Smith stated the way this was presented to Council was by doing this we would not have to buy part of the lot and then have severance fee to pay on the balance, but it could very well be that going through condemnation procedure for the expressway per se, forgetting about the Urban Redevelopment, the City could come out with less cost than going through the Redevelopment procedure with all the cost that they had in purchasing this land; that is the point that raises its head at this place in the discussion, because it might cost more to have to pay severance on a lot but then that would come under Urban Redevelopment and that would be 2/3 Federal Government and 1/3 City. He asked if in other areas with which Mr. Sawyer is familiar, highways are commonly included in Urban Redevelopment Projects? Mr. Sawyer stated they are, and as a matter of fact this is Federal roads money and they strongly recommend it; that there is an effort in the top Federal level to coordinate these programs for the benefits that are listed here primarily, but for other benefits also.

Councilman Whittington asked Mr. Sawyer if based on the fact that the City is going to need this land within 5 years and they are moving into Phase 3, could it not be assumed that the City would save more if Council went into the program jointly with the Redevelopment Commission, forgetting the severance part of it? Mr. Sawyer stated he thinks the Council will save money and he has given it considerable thought, but he cannot guarantee it.

Councilman Smith stated the Council is approving Phase 3 because they understood this had to be done in order to cover the Expressway program, but actually the City is going to pay them every penny they put into the right of way whether they do it or the City's agents do it? Mr. Sawyer stated that is correct, the cost of the land and the improvements. Councilman Smith stated actually it doesn't make any difference whether Council goes ahead with the Expressway project now and Phase 3 comes later, it will still cost the City the same amount. Mr. Sawyer stated he thinks if the City precedes them and they later come along and buy the land abutting the Expressway that the City did not buy, they would have to pay a premium price for it, a price that will reflect the enhancement.

Councilman Dellinger asked if the Federal Government suggests that this be done? Mr. Sawyer replied, No, there is no suggestion from the Federal Government that this particular phase be undertaken. That his point is, where there are two sources of Federal funds going into the same area, there is an effort to coordinate the activities of the two sources. Councilman Smith called attention to the slow process on Phase No. 1, and stated the Council does not want to go into Urban Redevelopment if it is going to postpone this expressway for a year. Mr. Sawyer stated here again he can give Council no guarantee, except to say they have learned a lot in Phase No. 1 that will stand them in good stead in future projects. That they cannot predict the speed with which the Courts will handle their condemnation cases and that is where they are bogged down at the present time. That they are co-sponsoring legislation that will speed this up and if it is approved by the Legislature it will allow them to pay the money into the Court a little earlier.

Councilman Whittington asked the City Attorney if he concurs with what Mr. Veeder and Mr. Sawyer say? Mr. Morrissey replied, yes, 100%.

Councilman Bryant referred to the block across 4th Street and stated that Mr. Sawyer says negotiations take place within the limits prescribed by the Federal Government - so in essence he is setting a minimum, or base, from which it has to start - and just suppose, for example it was worth \$500,000 base from which negotiations had to start and the City offered \$400,000, could Mr. Sawyer negotiate? Mr. Sawyer replied that they could negotiate if the \$400,000 was not below the fair market value as determined by a competent appraiser who was jointly agreed upon. Councilman Bryant asked if a competent appraiser said the property was worth \$500,000, and the City offered \$400,000? Mr. Sawyer stated he does not believe they could negotiate on that basis; but if they had two appraisals, one at \$400,000 and the other at \$500,000, they could negotiate at \$400,000. Councilman Bryant then asked if the appraisals were \$500,000 and \$600,000 and the City offered \$400,000; Mr. Sawyer would refuse it, but if they put it on the market and it wouldn't sell for more than \$350,000, could Mr. Sawyer accept that? Mr. Sawyer stated they could do so after determining it by putting it on the market and finding out what it would sell for, what the fair market value was and that the appraisers were wrong. Councilman Bryant asked if it is prescribed as to how the Commission offers this to the general market, and how long it has to stay on the market before it can be brought down under the \$400,000 mark? Mr. Sawyer stated that the North Carolina law specifies that it must be advertised for two weeks. He stated they are off on the wrong premise here, that if they did not sell the land to the City, they would sell it to a private developer. However, they have already included a provision with the City in our Cooperation Agreement for carrying out the Project, the City's 1/3 share. That they have earmarked this land for the City and the City has agreed to buy it at a fair market value and they have agreed to sell it at a fair market value and the only thing to be determined is what a fair market value is, which will be done through appraisers. Councilman Bryant asked if this Agreement for fair market value was made by

the prior Council, and if they could commit the present Council to that? Mr. Sawyer stated the contract can, that the Redevelopment Commission is going to give the City every advantage.

Councilman Thrower moved that Council go ahead and adopt Project Area No. 3. The motion was seconded by Councilman Albea.

Councilman Bryant stated he wants to make it clear as to his vote. That he doesn't want to be misunderstood that he is changing his position whatsoever. That he is still unalterably opposed to the concept of Urban Redevelopment and does not subscribe to it in any way; however, it is very obvious that this particular Phase is going through regardless of how he votes, and further, the acquisition of the property for the expressway will certainly be an extenuating circumstance as far as he is concerned, and in essence, save the taxpayer money, and as a result he could not stand in the way of these two things involved, so he will vote in the affirmative.

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

COMPLAINT OF W. H. TRAYWICK RELATIVE TO DIVERSION OF DRAINAGE WATER FROM CITY'S CEMETERY PROPERTY ONTO HIS PROPERTY REFERRED TO CITY MANAGER FOR INVESTIGATION AND REPORT.

Mr. W. H. Traywick, 3837 Sheffield Drive, registered a complaint regarding the drainage water from adjoining Evergreen Cemetery being diverted onto his property by reason of a ditch which was built on an undeveloped portion of Cemetery property, consistently and repeatedly being filled up about every three months. That on December 16th one of his neighbors, using a 3 cubic foot wheelbarrel went back up onto city property and dumped debris in the ditch behind his property line, which caused the water to flow onto Mr. Traywick's property. He stated he telephoned Mr. Haas, Superintendent of Cemeteries about it and was told there was nothing he could do about it and to keep his hands off. That last Friday he went home and was hit in the face with a big sign 36" x 18", erected on the edge of his yard reading "No Trespassing", and there was another one a couple of blocks down the street. That he again called Mr. Haas, who stated his neighbor had burned his ears for 35 minutes the night before and he had to do something. Mr. Traywick asked if that was any way to get service from the City? That when he calls Mr. Haas nothing is done except to be told to lay off, while someone else goes up and fills dirt in the ditch, and nothing is done about it. At the question as to who erected the Sign, Mr. Traywick stated that Mr Haas had put it up and it was on the line of the City's property, and he had telephoned Mr Haas and asked him to put it back a little in the woods so it would not be so conspicuous and he said he would but had not done so.

Councilman Dellinger asked the City Manager if he has any comment to make? Mr. Veeder replied he had nothing to say regarding the Sign but does have a comment on the balance of the problem. He stated he did not think any action is indicated on the balance.

Councilman Jordan moved that it be referred to the City Manager to check into the matter and report to Council at next week's meeting. The motion was seconded by Councilman Thrower.

Councilman Dellinger asked if the Sign is between his house and the one to the left as one faces his house? Mr. Traywick replied the person who has been filling the ditch has no sign on his lot, and his house is on the opposite corner from the other side.

Mr. Traywick asked if Council considers it proper to issue any kind of directive with some teeth in it or something that will be binding that will stop this continuous filling in of these natural drainage places? That the way it is going now, it seems you get a pat on the back if you go ahead and do as you please. That Mr. Davis of the Engineering Department came out one time and told him it was illegal and told his neighbor it was illegal, then when he talked with Mr. Davis a few days later, he said the neighbor would not dump in the ditch again and he would not make any official report as he was handling it himself. However, it wasn't two weeks before his neighbor was down there filling up the ditch again. That his point is since the water is diverted onto his property a little at a time and unless one is seen filling in the ditch, there is no evidence that he is doing so, so he is trying to get the City to stop it once and for all.

Mayor Brookshire asked Mr. Traywick if the trouble or difficulty was not with his neighbor? Mr. Traywick replied if the neighbor was not there, there wouldn't be any trouble. He stated further he is only trying to protect his investment in his property, he only wants done what is right and would like to see the matter settled, and he cannot convince himself that the Council would go along with this if they knew what was happening.

The vote was taken on the motion and passed unanimously.

ADJOURNMENT.

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

Lillian R. Hoffman

Lillian R. Hoffman, City Clerk