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A Special Meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber in the City Hall, on Monday, May 13, 1963, at 11 o'clock a.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 Councilman Gibson L. Smith.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Jordan, and un-animously carried, the Minutes of the last regular meeting on May 6th were approved as submitted.

REQUEST OF JOHN D. SHAW RELATIVE TO SIDEWALK REPAIRS IN FRONT OF HIS PROPERTY AT NORTHWEST CORNER OF NORTH TRYON AND WEST SIXTH STREETS REFERRED TO CITY ATTORNEY FOR CONSIDERATION AND RECOMMENDATION.

Mr. John D. Shaw advised that he owns the lot at the southwest corner of North Tryon and West 6th Streets, which is subject to a 25-foot setback line. That the Engineering Department had advised him the sidewalk is in bad condition and should be repaired, and he has looked at it and finds this to be true, as it is hipped up in places. That under the City's sidewalk repair policy where the landlord helps pay for the concrete and the City does the work, the Engineering Department advises the cost to him for the concrete will be \$200.00. That in view of the setback condition should the City decide to widen West 6th Street, they would take the new sidewalk and also the replaced sidewalk on Tryon Street; therefore, he would like to ask the Council if it is their desire that this work be done and if so if he makes this expenditure of \$200.00 on the repair, can his \$200.00 not be considered as part of the improvements to the property?

Councilman Dellinger asked the City Attorney for a ruling on the request. Mr. Morrissey stated he thinks it might be better if he were given an opportunity to discuss it further with Mr. Shaw and then advise Council rather than make a ruling now.

Councilman Dellinger moved that the request be referred to the City Attorney for his consideration and recommendation to Council. The motion was seconded by Councilman Smith.

Mr. Shaw stated further that the sidewalk is in pretty bad condition and he understands a couple of people have stumbled and fallen on it, and he is willing to cooperate in repairing the sidewalk but would like to protect his \$200.00.

Councilman Smith asked if what he is asking is not that the City give him credit for the \$200.00, and Mr. Shaw replied that what he is asking is that he can only make an improvement to his property with the consent of Council and if Council says go ahead and make his improvement then he wants them to keep it in mind if they ever take it. Mr. Bobo, Administrative Assistant,

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suggested that Mr. Shaw is speaking of any future assessments, not the value of the land, and Mr. Shaw stated that is not it at all - he is speaking of any improvement he might want to make to his property, which under the law, he would have to secure Council's permission to make.

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

DECISION ON PETITION NO. 63-20 FOR CHANGE IN ZONING OF PROPERTY ON SOUTH SIDE OF CENTRAL AVENUE, FRONTING ON WEST SIDE OF ROSEHAVEN DRIVE, DEFERRED FOR TWO WEEKS.

Petition No. 63-20 by Southeastern Land & Development Company for change in zoning from R-6MF to B-1 of a tract of land on the south side of Central Avenue, fronting 160-feet on the west side of Rosehaven Drive, was presented for consideration.

Councilman Whittington stated he understands some of the Council have not seen the property and would like to postpone the decision. Councilman Dellinger stated he would like to see the property as he has not had an opportunity to do so.

Councilman Whittington moved that Council's decision be postponed for two weeks, which was seconded by Councilman Jordan.

Councilman Smith asked Mr. John D. Shaw, Attorney for the Petitioner, if he had filed a petition from the people who had bought duplexes in the rear of the property that they wanted the Shopping Center proposed for construction if the rezoning is approved, as there has been some talk about these people being against the rezoning? Mr. Shaw replied he did not have a petition but the information they have is that these people would like to have the Shopping Center, and he understands they have no objections to the rezoning. Councilman Smith suggested that a Petition from the people would strengthen his position if he could get one.

The vote was taken on the motion to delay decision for two weeks, and unanimously carried.

PETITION NO. 63-21 FOR CHANGE IN ZONING OF LOT ON THE SOUTHWEST SIDE OF CRAIG AVENUE, BEGINNING 200 FEET SOUTHEAST OF MCALWAY ROAD, DENIED.

Petition No. 63-21 by Mr. A. C. Moore, Jr. for change in zoning of a lot on the southwest side of Craig Avenue, beginning 200 feet southeast of McAlway Road, from R-9 to R-6MF, presented for consideration.

Councilman Dellinger advised the property deals with a man's 100-foot property and the zoning line splits his two lots; that he agrees with the Planning Board that this is one of the things Council tried to eliminate when the overall zoning was revised and he does not think it is going to seriously affect anyone in the area. That if the petitioner is going to utilize his property he certainly needs the line moved over to the outside of his property and the Planning Board recommends it. Further, that the opposing petition came in after the Hearing, and in his opinion the Zoning Ordinance should be changed to the effect that Petitions must be on hand the day of the Hearing, rather than two or four days after the Hearing.

Councilman Whittington asked if Mr. Sykes had the protest petition here on the day he presented his objections, and Councilman Dellinger stated Mr. Moore appeared but no petition against the change was presented.

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Councilman Albea moved the adoption of the Ordinance Amending the Zoning Ordinance changing the zoning from R-9 to R-6MF as requested and as recommended by the Planning Board. The motion was seconded by Councilman Dellinger.

Councilman Dellinger called attention that due to the protest petition being signed by 100% of the adjoining property owners on two sides of the property in question invoking the protest provision of the law, a 3/4th vote of the Council will be necessary to grant the change in zoning.

Councilman Albea asked the City Attorney if the protest petitions that came in after the Hearing are legal? Mr. Morrissey replied that they are under the present law.

The vote was taken on the motion, and lost by the following recorded vote:

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

DECISION ON PETITION NO. 63-23 FOR CHANGE IN ZONING OF ENTIRE BLOCK ON WEST SIDE OF PARK ROAD, BETWEEN HOLMES DRIVE AND HEATHER LANE, DEFERRED TWO WEEKS.

Petition No. 63-23 by Mrs G.B. Pendleton, Mr and Mrs J. Clyde Smith and others for change in zoning from R-6MF to O-6 of the entire block on the west side of Park Road, between Holmes Drive and Heather Lane, was presented for consideration.

Councilman Dellinger stated at the last meeting he asked that Council decision be postponed and that Mr. Abernathy, Attorney for the petitioners, contact the adjoining property owners and see if it would be satisfactory if a buffer zone was established at the back of the property in question. He asked Mr. Abernathy if he has the information? Mr. Abernathy stated he understands this is agreeable to the property owners at the place where the request has been made; that at one place these lots run back about 140 feet, and on the corner where Mr. Helms and Mr. Smith live they run about 200 feet or more. Councilman Whittington asked if it is true that the lots are deeper at Heather Lane and as you go toward McGinn's Shopping Center they become more shallow? Mr. Abernathy stated that is correct; as you approach Heather Lane the lots run back 30 or 40 feet further. Councilman Whittington then asked if Mr. and Mrs Holmes, Mr. Smith and Mr. Helms are all agreeable to this, and Mr. Abernathy stated that Mr. Helms is one of the parties who objects to it.

Councilman Whittington then asked Mr. Helms, who was present, if it would be satisfactory with him if the buffer zone on the Smith property is left between his house and the Smith property? Mr. Helms stated he understands the property is 260 feet, and the way it stands the 200 feet near Park Road is already zoned and the 60 feet back behind is zoned just as his and every one else's is zoned. That his lot joins three other lots, one owned by Mr. Clyde Smith and two by Mr. Pendleton, and the Pendleton lot comes into the back of his property and if any type of business goes in there, it will mean there could be three parking lots right against his property, and if the property is zoned for Offices then they would construct parking lots; that as it is, his family has to sit and look at a parking lot directly across the street.

Councilman Dellinger asked if Mr. Helms would be satisfied with a buffer zone, that under the ^{new} law a buffer zone is different from what it was when

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the Doctors built out there; that the petitioners would have to erect a brick wall back there to protect the adjoining property owners rights. Mr. Helms replied he would not like a brick wall as it would be within $7\frac{1}{2}$ feet of his door, as it would knock out all the ventilation and decrease the valuation of his property. In reply to Councilman Dellinger if a shrubbery screen would be legal, the City Attorney stated it would not have to be a brick wall, just an effective screening. Mr. Helms stated further he would hate to see a buffer established, and he can only try to protect his own interest and he cannot see that it is right for Council to vote for some one person's property to increase in value by rezoning, when it would put down the value on the adjoining person's property. Councilman Dellinger stated he is merely trying to find something that would be reasonable and acceptable to all concerned. Mr. Helms then asked if there is any change of leaving it zoned at the corner as it is as far as the 60 feet is concerned?

Mr. Clyde Smith stated they moved out there twelve years ago and Mr. Helms bought and moved out there after Dr. Palmer moved into his Clinic and he knew what was there when he bought. That the residents haven't said anything but Council just awarded Dr. Palmer one of the nicest things that anybody could be awarded in the city and the people behind his property are very well pleased and he cannot understand why the people behind him feel they are any better than those behind Dr. Palmer. That he and the other petitioners can no longer live on Park Road where 12,000 cars have been clocked by the City and the residents behind them use the drop-off into Heather Lane to slid their brakes into Park Road; that he and the other petitioners have owned their property the longest out there and are receiving the least consideration, while the majority of the complainants moved in after the Park Road Shopping Center was built, therefore, they knew they were moving into a potential business area. Councilman Dellinger stated the Council does not want to get into personal affairs but just to find out how much buffer Mr. Smith will give Mr. Helms and Mr. Holmes. Mr. Clyde Smith advised that Dr. Palmer put about 10-feet into a buffer zone and has landscaped it and he would give the same.

Councilman Smith stated he is of the opinion that if Mr. Smith would give Council assurance that he will maintain a 10-foot area in planting etc, it would be more effective than to force him into a settlement which he can just let run down. That he thinks it would be better to cause a halt to the fight and he thinks that cooperation and good feeling would do more than to arbitrarily put a 20-foot no-man's land between these people and the war still be on between them.

Mr. Clyde Smith stated he does not want to put apartments on the property, as they love the community and had planned to live and die on it but they cannot do so any longer, and apartments would ruin the whole community and he has no desire to do that.

Councilman Dellinger stated again he would like for these people to agree on a buffer zone if there is to be one; that he cannot agree with Councilman Smith that just because a buffer is set up it is going to be a no-man's land, for somebody is legally responsible for the property, and the Health Department can always take over if it gets out of hand.

Councilman Albea moved the adoption of an Ordinance to Amend the Zoning Ordinance to change the zoning from R-6MF to O-6 as requested and as recommended by the Planning Board. The motion was seconded by Councilman Smith.

Councilman Smith then asked Mr. Sims, who lives behind the property in question, on what basis some of his people object? Mr. Sims stated that

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85 property owners signed the petition; that they figure the traffic will be increased, and it is already bad. That since Dr. Palmer put up his Clinic parking has increased not only in his lot but up the street, and increased traffic hazards and will decrease property values. That they are not out to make any money, neither do they want to lose any, and he wants to do what is right and just for everyone and he wants Council to know that the 85 people who signed the protest petition have the same viewpoint.

Councilman Dellinger asked Mr. Smith the width of his property on Park Road and also at the back at Mr. Helm's property line? Mr. Clyde Smith stated both his and the Pendleton lots are 90-feet wide. Councilman Albea stated he thinks they should go ahead and pass on the zoning and let the residents settle on the buffer zone, that he does not like them anywhere in town, and if they want to settle it, it is their affair and he wants no part of it.

Councilman Thrower offered a substitute motion that the decision in the matter be deferred for two weeks, which was seconded by Councilman Dellinger.

Mrs Holmes stated she has talked with all of the adjoining property owners and the majority did not know that they were zoned for apartments when they signed the petition. Mayor Brookshire asked her if she thought two weeks would be sufficient time to give the people in the neighborhood an opportunity to agree among themselves on this and Mrs Holmes stated the majority prefer offices to apartments, and they do not care to sign another petition.

Mayor Brookshire stated further he is not sure that anything will be gained by deferring action because a decision will have to be reached that is presumed going to satisfy everyone regardless of which way it is decided, however, he called for a vote on the substitute motion for deferment for two weeks, and the motion was unanimously carried.

ACTION DEFERRED UNTIL JUNE 17TH ON PETITION NO. 63-24 FOR CHANGE IN ZONING OF 1.09 ACRE TRACT OF LAND ON THE NORTHEAST SIDE OF ALBEMARLE ROAD, BEGINNING 450-FEET NORTHEAST OF SHARON-AMITY ROAD.

At the meeting on May 6th a decision was considered on Petition No. 63-24 by Mr. E. T. Haney for change in zoning of 1.09 acre tract of land on the northeast side of Albemarle Road, beginning 450 feet northeast of Sharon-Amity Road, from R-9 to B-1, and a letter was presented from Mr. Paul Ervin, Attorney for Mr. Haney, requesting that no action be taken on the petition as Mr. Haney understood other property owners in the immediate area wish to join with him in a general petition for rezoning the entire area and it would be more appropriate to consider all of the petitions at the same time. Councilman Smith asked that Mr. Ervin be requested to appear at the next meeting and explain his request.

Mr. Paul Ervin was present and advised his reason for requesting that no action be taken was as stated in his letter, and he suggested it for the purpose of giving the property owners the opportunity to file their petitions for a change in the zoning of adjoining properties to B-1 the same as Mr. Haney has requested which he understands has been done in the last several days. That it would then not be a matter of spot zoning but a matter of an entire area, which should be considered all at one time, and he would suggest that it be deferred for four weeks.

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Councilman Dellinger moved that the Petitions for the change in zoning of these properties be set up for the June 17th Hearing date. The motion was seconded by Councilman Smith.

Councilman Albea asked Mr. Ervin if it would come back to Council as a new petition to be heard again? Mr. Ervin replied that they have had their hearing, the other people would be given the usual investigation by the Planning Commission, they would make their recommendation and then they would have a hearing on theirs, in which they would just sit by and say they agree.

The vote was taken on the motion and unanimously carried.

PAYMENT AUTHORIZED TO OSBORNE & GRIFFIN FOR TITLE EXAMINATIONS.

Councilman Bryant moved approval of the payment of \$315.00 to Osborne and Griffin, Attorneys for title examination of five tracts of land in connection with the Kenilworth Avenue Extension Project. The motion was seconded by Councilman Albea, and unanimously carried.

ACQUISITION OF RIGHTS-OF-WAY FOR CONSTRUCTION OF SANITARY SEWER LINES TO SERVE QUEENS ROAD, INC., NORTHCREST DRIVE AND ORCHARD ACRES.

Motion was made by Councilman Dellinger, seconded by Councilman Whittington, and unanimously carried, authorizing payment for the acquisition of the following rights of way for the construction of sanitary sewer lines:

- (a) Payment of \$166.00 to Mr. E. Y. Keesler for right of way 10-ft. wide by 166-ft. long between Baxter and Luther Street near Queens Road, for the construction of a sanitary sewer line to serve Queens Road Inc.
- (b) Payment of \$140.00 to Mr. M. B. Thomas and wife Dossie, for right of way 10-ft. wide by 138.46-ft. long at the north end of Northcrest Drive, for the construction of a sanitary sewer line to serve Northcrest Drive.
- (c) Payment of \$587.27 to Western North Carolina Methodist Home for right-of-way 10-ft. wide by 1,174.54-ft. long off of Shamrock Drive, for the construction of sanitary sewer line to serve Orchard Acres.

SUPPLEMENT AUTHORIZED TO LEASE WITH U.S. DEPARTMENT OF COMMERCE FOR ADDITIONAL SPACE IN AIRPORT TERMINAL BUILDING FOR USE BY WEATHER BUREAU.

Upon motion of Councilman Bryant, seconded by Councilman Jordan, and unanimously carried, Supplement #1 to Lease with the U. S. Department of Commerce for Room #229 in the Airport Terminal Building, to cover additional space for their use in Room #234, at an additional rental of \$15.00 per month, was authorized.

Councilman Smith asked how many square feet are involved, and Mr. Bobo, Administrative Assistant, advised he did not have the footage but it was a closet which had been converted. Councilman Smith stated he thinks it would be proper when available, that the size of the area be given when presented to Council. That he is going to continue to bring these up, as he is not going to rubber stamp them because he thinks Council should have this information.

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SPECIAL OFFICER PERMIT GRANTED MRS EILEEN R. FINNIGAN FOR USE ON PREMISES OF J. B. IVEY & COMPANY.

Councilman Jordan moved approval of the issuance of a Special Officer Permit to Mrs Eileen R. Finnigan, 162 North Canterbury Road, for use on the premises of J. B. Ivey & Company. The motion was seconded by Councilman Dellinger, and unanimously carried.

CONSIDERATION OF APPOINTMENT TO FILL VACANCY ON PARK AND RECREATION COMMISSION DEFERRED FOR TWO WEEKS.

Upon motion of Councilman Jordan, seconded by Councilman Whittington, and unanimously carried, consideration of an appointment to fill the vacancy on the Park and Recreation Commission was deferred for two weeks.

TRANSFER OF CEMETERY LOT.

Upon motion of Councilman Dellinger, seconded by Councilman Jordan, and unanimously carried, the Mayor and City Clerk were authorized to execute a deed for the transfer of Lot No. 287, Section 4-A, Evergreen Cemetery, to Harry E. and Mary H. Stacy, at \$189.00.

CONTRACT AWARDED THE GAMEWELL COMPANY FOR FIRE ALARM BOXES, AND CITY MANAGER REQUESTED TO MAKE REPORT ON EXISTING FIRE ALARM EQUIPMENT, AND IN FUTURE REQUEST BIDS ON SPECIALIZED EQUIPMENT ONLY FROM BIDDERS WHO CAN MEET SPECIFICATIONS.

Motion was made by Councilman Jordan, seconded by Councilman Albea, and unanimously carried, awarding contract to the low bidder meeting the specifications, The Gamewell Company, for 25 Fire Alarm Boxes, 30 Brackets for modified box and 30 Ground Rod Assemblies, as specified, in the amount of \$4,306.02.

Councilman Smith stated this brings up the perennial conversation that Gamewell must have the lock on all our fire alarm system so that no one else can meet the specifications. He asked Mr. Bobo if this is not the case? Mr. Bobo replied that is correct, that equipment is not interchangeable and our present system is Gamewell and we have too much money invested to make a change.

Councilman Smith stated that any time you buy a product where replacement parts can only be gotten from the same company, taking bids is a farce and we might just as well throw our bidding procedure out the window. That he does not know enough about it to be critical but he does know it comes up time and again. If we are going to get true bids on the equipment we need, then we ought not to ask Fyr-Fyter to bid, we should just say that no one else can bid on this but Gamewell. That this has been talked about for the four years he has been on the Council and he does not like to do anything in a sham way which this looks like and if Gamewell is the only one whose parts we can use, then we should go ahead and negotiate with only Gamewell.

Councilman Dellinger asked if all the fire alarm boxes the City has comes from this Company, and Mr. Bobo replied yes. He then asked Mr. Bobo to give Council a report on how many boxes are placed within the year, how many replaced and how much repairs is done on the boxes. That he thinks Council should have these figures and then they would know whether its important to stick to one line. He then asked Mr. Bobo to give Council a breakdown on the replacement parts and the replacement of boxes for the last two years.

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Councilman Bryant remarked that it may be there are no fire alarm systems which are interchangeable, and under the circumstances we couldn't very well secure parts from another company, that they wouldn't react in the same central alarm system and so its not a matter of replacing or redoing the insides for the fact that if you put a Gamewell fire alarm on the initial system of a Fry-Fyter it wouldn't work, so you almost have to commit yourself to one of the several companies.

Councilman Albea stated that Council should never get themselves in a position where they cannot have free open bids on anything.

Mayor Brookshire stated it does happen even though they do not like to have this sort of situation, that different manufacturers have different patterns, they design their equipment differently and you seldom see equipment of this specialized nature that will be interchangeable one with another. If Fry-Fyter had been bought to start with, you would find that Gamewell parts could not be used on it.

Mayor Brookshire stated that Council is asking that in the future on specialized equipment the City Manager make a very thorough investigation of the adaptability of competitive equipment and if it is found there are competitors who can bid on the specifications, we would like to have competitive bidding. That he notes on this Fire Alarm equipment invitations were extended to 12 companies and we received only two bids and one of them, according to our Fire Chief, does not comply with the specifications.

The vote was taken on the motion for the award of the contract and unanimously carried.

The following bids were received:

The Gamewell Company	\$ 4,306.02
Fyr-Fyter Electronic & Alarm Corp. (Did not meet specifications)	4,107.13

CONTRACT AWARDED ROSS & WITMER, INC. FOR REPLACEMENT PARTS FOR AIR CONDITIONER AT IRWIN CREEK PLANT.

Upon motion of Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, contract was awarded the low bidder, Ross & Witmer, Inc., for replacement compressor on the air conditioner at the Irwin Creek Plant, as specified, at their bid price of \$1,025.00.

The following bids were received:

Ross & Witmer, Inc.	\$ 1,025.00
Patterson Coal & Oil Company	1,045.00
A. Z. Price & Associates, Inc.	1,076.00
Home Appliances Company	1,290.00

NEXT COUNCIL MEETING TO BE HELD ON MONDAY, MAY 27TH.

Councilman Albea moved that the next Council Meeting be held on Monday, May 27th as next Monday, May 20th, will be observed as a Holiday in commemoration of the Signing of the Mecklenburg Declaration of Independence. The motion was seconded by Councilman Jordan, and unanimously carried.

ADJOURNMENT.

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

Lillian R. Hoffman
Lillian R. Hoffman, City Clerk