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A regular meeting of the City Council of the City of Charlotte, North Carolina was held on Monday, October 14, 1968, in the Council Chamber of the City Hall, at 3:00 o'clock P.M., with Mayor Stan R. Brookshire presiding, and Councilmen Fred D. Alexander, Sandy R. Jordan, Milton Short, Gibson L. Smith, James B. Stegall and Jerry Tuttle present.

ABSENT: Councilman James B. Whittington.

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INVOCATION.

The invocation was given by Councilman Gibson L. Smith.

MINUTES APPROVED.

Upon motion of Councilman Jordan, seconded by Councilman Stegall, and unanimously carried, the minutes of the last meeting, on October 7, 1968, were approved as submitted.

MERIT AWARD PRESENTED TO LARRY WILSON.

Mayor Brookshire stated he has the very pleasant task today of presenting a merit award, and read the following letter from Chief J. C. Goodman, Jr.

"Effective law enforcement can only be accomplished by public concern and support. In this era when lawlessness seems to be increasing, responsible citizens must dedicate their efforts to the pursuit of order and stability for all, and follow this resolve with personal involvement and commitment. They cannot merely espouse these principles - they must each, as individuals, work diligently towards this goal.

Larry Wilson typifies this dedication to active involvement in the problems confronting our community. Disregarding his own safety, he came to the aid of a robbery victim, subduing the felon and detaining him until the police arrived. It is most fitting that we express our appreciation for Mr. Wilson's assistance. He is a credit to our city and deserving of our highest praise. We therefore recommend that Mr. Wilson be presented with an award for his public service."

Mayor Brookshire expressed the community's appreciation for the act of valor and the discharge of a real fine example of citizenship, and stated if all the citizens in Charlotte were as alert and helpful as Mr. Wilson has been in this particular instance, crime could be cut in Charlotte substantially.

PETITION NO. 68-65 BY WILLIE B. EDWARDS, ET AL, FOR A CHANGE IN ZONING OF THE ENTIRE BLOCK ON THE SOUTHEAST SIDE OF THE PLAZA, BETWEEN SUGAR CREEK AND SWEETBRIAR STREET, DEFERRED.

Because of Mr. Whittington's interest in the subject petition, Councilman Short moved that decision on the petition be deferred due to Mr. Whittington's absence. The motion was seconded by Councilman Tuttle, and carried unanimously.

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DECISION ON PETITION NO. 68-63 BY DELTA REALTY CORPORATION AND AMERICAN LEGION POST 400 FOR A CHANGE IN ZONING OF A TRACT OF LAND ON THE EAST SIDE OF DELTA ROAD, BETWEEN ALBEMARLE ROAD AND HICKORY GROVE ROAD, AND PETITION NO. 68-69 BY MCEWEN FUNERAL SERVICE, INC., FOR A CHANGE IN ZONING OF A TRACT OF LAND ON THE SOUTHEAST SIDE OF MALLARD CREEK ROAD, BEGINNING NORTHEAST OF DERITA ROAD, DEFERRED.

Councilman Stegall stated as there are only six members of Council present, and in fairness to the petitioners, he moved that the subject petitions be deferred until seven members of Council are present. The motion was seconded by Councilman Tuttle, and carried unanimously.

ORDINANCE NO. 50 AMENDING CHAPTER 6 OF THE CODE OF THE CITY OF CHARLOTTE LICENSING AND REGULATING MASSAGE PARLORS, HEALTH SALONS AND SIMILAR ESTABLISHMENTS, ADOPTED.

Councilman Tuttle stated he finds nothing wrong with the rewrite of the subject ordinance with one exception. That where the original ordinance required each applicant to furnish three certificates of good moral character, it is omitted from this ordinance and without it, we could have a situation where a man could walk out of the penitentiary tomorrow and become a masseur the next day - he would not need any references, any licenses or any qualifications. That he would think it would be a little better ordinance if they had to go to the trouble to furnish the three letters of recommendation.

Councilman Tuttle moved the adoption of the ordinance with this particular portion pertaining to character reference reinstated in the ordinance. The motion was seconded by Councilman Short.

Mr. Underhill, Acting City Attorney, stated in replacing this portion they substituted language and made it a little more discretionary in that it states now the applicant may be required to provide proof of good moral character; this could mean something more than the three affidavits; that in questionable cases a more detailed look at the individuals moral character could be in order with the substituted language; there is no legal reason why the three certificates of good moral character cannot be reinstated.

Councilman Jordan asked why the two years of practical experience was taken out of the revised ordinance? Mr. Underhill replied the only problem is - where do you get the experience; that he has looked into schools along with the police department and the head of the physical therapy association in North Carolina and he does not know of any schools in this state that would provide the necessary courses.

Councilman Short stated the omission of the educational and experience requirement is properly omitted; this gets into the situation of trying to license people in a financial business license sense; that he is not sure the city is supposed to get into this type of licensing. Mr. Underhill stated he does not think the city has the authority to regulate the qualifications of personnel to this extent; that is one of the reasons this was taken out; the other reason is at the time the original ordinance was being tested in court, one of the trial judges expressed some strong reservations as to the nature of the restrictions being put on these people.

Mr. Veeder, City Manager, stated the principal thing we are trying to do to this ordinance is to require that masseurs and massuese operate on men or women but no mixing of the sexes; this is the principal objective. That anyone can get three people to sign a simple statement that they

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are of good moral character; but to provide proof of good moral character when required is a stronger provision than the first provision; it gives some application of judgement in the process - in this case on the part of the Chief of Police.

Mr. Underhill stated the proposed ordinance Section 6-47(a) now reads: "may be required to furnish proof". Councilman Tuttle asked if the "may" can be changed to "shall" be required.

Councilman Tuttle stated he would then change his motion, and Councilman Short, who seconded the motion, agreed to the change.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 15, beginning on Page 486.

ORDINANCE NO. 51 AMENDING CHAPTER 18 WITH RESPECT TO THE SUBDIVISION ORDINANCE BY ADDING A NEW SECTION ENTITLED "PRELIMINARY SITE PLAN AND FINAL PLAT REQUIREMENTS FOR PLANNED DEVELOPMENTS".

Councilman Smith moved the adoption of the subject ordinance. The motion was seconded by Councilman Jordan.

Councilman Smith stated the first time this was presented to Council, he and the Mayor had some questions about it. He stated he was not opposed to it but there were some new things about it, and he wanted to understand them. That the more he got into it and talked to the experts, it looked like a good thing. He was afraid at first this would throw it into the flood plain land and they could get credit for it and it would still be open as it is now. Under this ordinance, Council will have the position of approving or disapproving on each unit basis. This gives all the safeguards that are needed.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 15, beginning at Page 490.

ORDINANCE NO. 52 AMENDING CHAPTER 23, ZONING ORDINANCE, ADDING A NEW SECTION ENTITLED "R-PUD PLANNED UNIT DEVELOPMENT DISTRICT".

Motion was made by Councilman Tuttle, seconded by Councilman Short, and unanimously carried, adopting the subject ordinance.

The ordinance is recorded in full in Ordinance Book 51, beginning at Page 493.

RESOLUTION SETTING DATE OF PUBLIC HEARING ON MONDAY, OCTOBER 28, ON PETITION OF JAMES C. EVANS, EVANS-HOWARD CONSTRUCTION COMPANY AND FIRST UNION NATIONAL BANK FOR ANNEXATION OF PROPERTY.

Upon motion of Councilman Tuttle, seconded by Councilman Stegall, and unanimously carried, the subject resolution was adopted setting date of hearing on petition to annex 38.5795 acres of property located in Sharon Township, contiguous to the city limits.

The resolution is recorded in full in Resolutions Book 6, at Page 206.

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APPRAISAL CONTRACTS, APPROVED.

Motion was made by Councilman Jordan, seconded by Councilman Stegall, and unanimously carried, approving the following appraisal contracts:

- (a) Contract with Alan J. Davis for appraisal of one parcel of land for the Airport Expansion.
- (b) Contract with Leo H. Phelan, Jr., for appraisal of one parcel of land for the Eastway Drive Project.

Councilman Smith asked the City Manager if in the new concept of moving the terminal to the other side of the runway, this makes him re-assess what is needed in this area? Mr. Veeder, City Manager, replied this is part of it. Councilman Smith stated he did not want to be buying up land at these prices unless we had to or thought we had to unless this had been put into context. Mr. Veeder replied this has been put into context.

PLANNING COMMISSION REQUESTED TO MAKE STUDY OF ZONING IN VICINITY OF AIRPORT.

Councilman Smith asked if the City is on top of the zoning in the vicinity of the airport? This should be pursued with all expediency at this point because we could come up with something else that we cannot handle if some zoning is not changed. That he thought a study was being made so that we will not come up with another I-2 right at the door. Councilman Tuttle stated a request for a study was made some months ago. The City Manager advised he would request a written report on the study for Council's consideration.

PROPERTY TRANSACTIONS AUTHORIZED.

Upon motion of Councilman Jordan, seconded by Councilman Stegall, and unanimously carried, the following property transactions were authorized:

- (a) Acquisition of 41,200 square feet of property on Berryhill Lane, R.F.D. 4, Box 560-L, from J. H. Allen and wife, Gloria C. Allen, at \$15,500.00 for the Airport Expansion.
- (b) Acquisition of 524 square feet of property at 908 Wesley Avenue, from Clark Luttrell and former wife, Ruby E. Luttrell (divorced), at \$250.00, for East Thirtieth Street Project.
- (c) Acquisition of 1,057 square feet of property at the northwest corner of The Plaza and Eastway Drive, from Humble Oil and Refining Company, at \$3,850.00, for the Plaza Road Widening.

CONSTRUCTION OF SANITARY SEWER MAIN TO SERVE WILLHAVEN DRIVE, AUTHORIZED.

Councilman Stegall moved approval of a contract with John W. Seaborn for the construction of 320 feet of 8-inch sanitary sewer main to serve Willhaven Drive, inside the city, at an estimated cost of \$1,890.00, with all cost of construction to be borne by the applicant whose deposit in the full amount has been received and will be refunded as per terms of the agreement. The motion was seconded by Councilman Tuttle, and carried unanimously.

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ADULT CROSSING GUARD AUTHORIZED EMPLOYED TO SERVE AT HOSKINS AVENUE AND GOSSETT AVENUE.

Councilman Stegall moved approval of the employment of an adult crossing guard to serve at Hoskins Avenue and Gossett Avenue. The motion was seconded by Councilman Smith, and carried unanimously.

CONSIDERATION OF EMPLOYMENT OF CROSSING GUARD FOR INTERSECTION OF ELIZABETH AVENUE AND TORRENCE STREET, DEFERRED ONE WEEK.

Councilman Stegall stated there is now an adult crossing guard at Fourth Street and Torrence Street and one at Third and Torrence Street, and they are now asking for a third crossing guard to work Torrence Street and Elizabeth Avenue. He stated he wonders if it is a practical situation since it will cost \$600.00 a year; that he is interested in the welfare of the children but he is also interested in the economy of the city as well. That it seems some arrangement could be worked out where one or the other of the crossing guards could work the children on a rotation basis and it would mean walking a block - this is a short block from Elizabeth Avenue down to Fourth Street - the guard could pick the children up at Elizabeth Avenue and cross them and carry them down to cross Fourth Street. Here there will be three blocks in succession with three crossing guards working one, two, three. There is a traffic light at the intersection of Fourth and Independence, and there is one at the intersection of Elizabeth and Independence; the children could walk one extra block and cross the streets where the traffic lights are located.

Councilman Stegall stated so many people have asked for crossing guards and it looks a little foolish to him to have three crossing guards within a three block area; realizing that all these streets are busy streets, he questions whether this is practical or not to do it this way. That it would seem to him that at 2:00 o'clock when the children get out of school, they know there is going to be 20 children to cross Elizabeth and Torrence Street; the same 20 perhaps will cross Torrence and Third Street. He asked if one of the crossing guards could not pick the 20 children up at Elizabeth and carry them down to Fourth Street and cross them at two intersections, rather than having three crossing guards with one standing at one crossing, and one at the next and one at the next block.

Councilman Stegall suggested that this be postponed and let Sergeant Hill, or whoever is in charge of this in the Police Department, make a study and come back. That he feels there are other areas in the City that these crossing guards will be more warranted. If the City does this, then other people will see it and come and say their problem is just as great as this one, and they think they should have it, too. He stated all he is looking for is to serve the most people with what we have.

Councilman Stegall moved that consideration of the crossing guard at this intersection be delayed for one week for further study. The motion was seconded by Councilman Tuttle.

Mr. Veeder, City Manager, stated his observations, along with Mr. Hoose and Captain Livingston, were similar to Mr. Stegall's. They observed that the school crossing guard at Fourth and Torrence has been escorting the children down Torrence to Elizabeth, and across Elizabeth. That his first reaction was this was satisfactory; there are some 66 children crossing at Elizabeth and Torrence in the morning and some 68 coming back in the afternoon. He stated while the crossing guard is taking the children down the block from Fourth to Elizabeth in the A.M., children come up to the Fourth and Torrence intersection and it is left unprotected for them while the crossing guard is walking the others down to take them across. Because this puts children at the intersection

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without any crossing guard there at some time during the morning, it could make it easy for the children to try to get across by themselves. It was for this reason that Mr. Hoose, Traffic Engineer, came up with the opinion that the request of Elizabeth School P.T.A. is sufficient to warrant authorization of the additional school crossing guard.

Councilman Stegall stated they use school patrol boys at the intersection of Park Drive and Travis to cross that intersection, and they also use them to cross at Hawthorne Lane and Fifth Street, and they also have a school crossing guard at Hawthorne Lane and Travis Street. That we are looking here at four school crossing guards serving one school. If the need warrants it, he does not want to argue this point, but he is saying that here we have an expenditure at this school of four crossing guards and some of the other schools have been saying their need is as great. He stated if they use school patrol boys at Torrence and Elizabeth to hold the children, then the adult guard could make the one block trip. That between the two adult guards it seems they could work three intersections along with the school patrol boys. That the boy could hold the pedestrian traffic but he would not want him to hold the vehicular traffic.

Councilman Tuttle stated he seconded the motion because he wanted to know about the number; that he did not know there were as many as 60 children crossing. He asked Mr. Veeder if he is satisfied that the guard is warranted and needed? Mr. Veeder replied there is one variable that he had not been aware of; he did not think of the fact there was a school crossing guard at Third and Torrence as well; that he thought it was one school crossing guard working two intersections. The fact you have two working three is a little different than one working two intersections. That he will ask Mr. Hoose if he has considered this and still comes to the same conclusion.

The vote was taken on the motion to defer action for one week, and carried unanimously.

Councilman Smith stated this means there will be two weeks. He asked if the Police Department can help out here in the interim; can the department put a man at Elizabeth and Torrence Street while this is being checked out. That if it has been recommended, Council cannot walk away from it.

ORDINANCE NO. 53-X AMENDING THE 1968-69 BUDGET ORDINANCE, AUTHORIZING THE TRANSFER OF \$650.00 OF THE GENERAL FUND CONTINGENCY APPROPRIATION.

Councilman Stegall moved the adoption of the subject ordinance authorizing the transfer of \$650.00 to be used for the employment of a school crossing guard at Hoskins Avenue and Gossett Avenue. The motion was seconded by Councilman Jordan, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 15, at Page 510.

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CLAIM OF HOWARD JOHNSON MOTOR LODGE AT INTERSTATE 85 AND STATESVILLE AVENUE.

Councilman Short asked if the City would have any possibility of finding out who dumped brick into a manhole to cause the sewage to back up? Mr. Underhill, Acting City Attorney, replied the City attempted to, but it could not be verified; that they have a strong feeling it was due to construction work at the service station next to the location.

Councilman Stegall asked if a regular inspection is made of the sewer lines by anyone other than the routine basis of cleaning? That perhaps in an area where there is new construction, at the end of the construction some of the Inspection Staff in the Sanitary Department could go out and look in the manhole to see if anything has been damaged. That if someone had looked at the situation at the motor lodge then it would have been found; that it is not right for this to happen, and he asked if there is anything the City can do to preclude this.

Mr. Veeder, City Manager, advised these lines are cleaned and inspected on a periodic basis depending upon circumstances; that old lines are inspected more often than a new line; if they have had trouble in the past, they check it more often.

Councilman Stegall stated a person has to have a permit to cut the street, and if he goes in around a sewer line then it would simply be a matter of following up on the construction to see that they did not do anything to damage the sewer system. Mr. Veeder stated this is not restricted to contractors and people doing work in the right-of-way; there is a problem of people putting improper materials into the system through their own housing facilities.

Mayor Brookshire stated Council would like to have the Engineering Department study their policies relating to this.

Motion was made by Councilman Tuttle, seconded by Councilman Short, and unanimously carried, denying the claim of Howard Johnson Motor Lodge in the amount of \$431.75, as recommended by the Acting City Attorney.

INVESTIGATION OF HOLE IN MIDDLE OF STREET LEADING TO K-MART ON FREEDOM DRIVE, REQUESTED.

Councilman Alexander requested that some one check the hole in the street that leads off Freedom Drive, going into K-Mart parking lot, beside the service station. In the middle of the block is a big open hole that looks like a drainage ditch and it has a 50-gallon drum over the hole. That on another occasion, he passed and the 50-gallon drum had been moved off the hole and was just half way covering the hole; the third time he went by the drum was over the hole. That if this is the city's responsibility, it seems a barricade should be around the hole with a light on it instead of the 50-gallon drum. Mr. Underhill, Acting City Attorney, stated K-Mart has a private easement to that particular store; a water main broke in the street last year and a claim was filed because it broke some pavement in the parking lot and in the easement area; that whether this relates to what Mr. Alexander is talking about, he does not know.

Mr. Birmingham, Assistant City Engineer, stated he does not know specifically if this is a private street; that the K-Mart did have some streets withdrawn from dedication originally; that someone will check this out this afternoon and if it is a city street, it will be fixed; if not, K-Mart will be notified.

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SPECIAL OFFICER PERMITS APPROVED.

Motion was made by Councilman Stegall, seconded by Councilman Jordan, and unanimously carried, approving the issuance of the following Special Officer Permits for a period of one year each:

- (a) Renewal of permit to James C. Hart, 118 Martin Street, for use on the premises of Johnson C. Smith University.
- (b) Renewal of permit to Luke Frederick Quinn, for use on the premises of Southern Railway C. D. Yard.

TRANSFER OF CEMETERY LOT.

Councilman Tuttle moved that the Mayor and City Clerk be authorized to execute a deed with Clarence R. and Annabelle S. Barton for Lot No. 450, Section 6, Evergreen Cemetery, at \$320.00. The motion was seconded by Councilman Stegall, and carried unanimously.

CONTRACT AWARDED PARNELL-MARTIN OF THE CAROLINAS, INC. FOR WROUGHT IRON PIPE.

Upon motion of Councilman Alexander, seconded by Councilman Stegall, and unanimously carried, contract was awarded the low bidder, Parnell-Martin of the Carolinas, Inc., in the amount of \$33,302.85, on a unit price basis for wrought iron pipe.

The following bids were received:

Parnell-Martin of the Carolinas, Inc.	\$ 33,302.85
Hajoca Corporation	33,332.46
Horne-Wilson, Inc.	33,691.48
Atlas Supply Company	34,496.05
Grinnell Company	34,498.65

CONTRACT AWARDED SOUTHERN RUBBER COMPANY, INC., FOR BUNKER BOOTS.

Motion was made by Councilman Jordan, seconded by Councilman Tuttle, and unanimously carried, awarding contract to the low bidder, Southern Rubber Company, Inc., in the amount of \$1,249.90, on a unit price basis for bunker boots for the Fire Department.

The following bids were received:

Southern Rubber Co., Inc.	\$ 1,249.90
Goodall Rubber Co.	1,290.81
U. S. Rubber Co.	1,298.78
O. J. Richardson	1,334.07
B. H. Moore	1,388.58
Allied Safety Supply	1,613.23

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CONTRACT AWARDED MILL POWER SUPPLY COMPANY FOR MICROPHONE CABLE FOR TRAFFIC ENGINEERING DEPARTMENT.

Councilman Smith moved award of contract to the low bidder, Mill Power Supply Company, in the amount of \$1,300.48 on a unit price basis, for microphone cable for the Traffic Engineering Department. The motion was seconded by Councilman Stegall, and carried unanimously.

The following bids were received:

Mill Power Supply Co., Inc.	\$ 1,300.48
Dixie Radio Supply Co., Inc.	1,357.74
Graybar Electric Co., Inc.	1,612.11

CONTRACT AWARDED SOUTHERN RUBBER COMPANY, INC., FOR RUBBER RAINWEAR FOR VARIOUS DEPARTMENTS.

Motion was made by Councilman Jordan, seconded by Councilman Tuttle, and unanimously carried, awarding contract to the low bidder, Southern Rubber Company, Inc., in the amount of \$1,729.11, on a unit price basis, for rubber rainwear for various departments.

The following bids were received:

Southern Rubber Co.	\$ 1,729.11
Catawba Industrial Rubber Co.	1,786.53
Tidewater Supply Co.	1,789.08
Allied Safety Supply Co.	1,963.16
Goodall Rubber Co.	2,058.42
B. H. Moore	2,441.12

REQUEST THAT FURTHER THOUGHT BE GIVEN TO CONDITIONAL ZONING SO THAT IT CAN BE PLACED ON AGENDA OF MEETING WITH LEGISLATIVE GROUP.

Councilman Stegall stated he thinks the city needs some conditional zoning. The Council has had a number of matters before them in the last few months that dictated this - such as the day care center brought to Council's attention last week in a residential area, and the situation at the airport. That he thinks this should be worked out so that when Council meets with the legislative group it will be on the agenda.

RAILROAD COMPANY REQUESTED THANKED FOR COOPERATION IN PAST AND REMINDED THEY ARE SLIPPING A LITTLE IN BLOCKING CROSSINGS.

Councilman Stegall stated yesterday from 4:50 to 5:10 on 16th Street, he was trapped in the railroad yards for 20 minutes by Southern Engine No. 2054. That a crossing guard was out there, but in that 20 minutes there must have been 40 or 50 cars involved that could not get across the crossing. He asked that the City Manager follow up on this and thank the Company for its cooperation in the past few months and remind them they are slipping a little.

Councilman Alexander stated he was caught on North Tryon Street for 30 minutes.

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STUDY REQUESTED ON CUT -OFF ON WATER RATES WHEN IT REACHES A CERTAIN POINT SO THAT YOU WILL NOT HAVE TO PAY SEWAGE CHARGE ON WATER NOT GOING THROUGH THE SYSTEM.

Councilman Smith stated when the new water rates are studied, there should be a cut-off on the water coming through the meter assignable to sewer in a residential location; that somewhere along the line there should be a cut off. That after the residential bill gets up to \$6 or \$7 that the sewer should not be doubled over and above a certain figure. That this would have to be subject to study.

DISCUSSION OF REPORT ON SUGAR AND BRIAR CREEK DREDGING.

Councilman Smith stated he received a report on the dredging of Sugar Creek and Briar Creek which he requested last week. That this was projected from Randolph Road and Princeton Avenue on Briar and Sugar Creeks down to some place close to Pineville.

Councilman Smith asked what happened on the other portion of the creek going to the northern part of the county? Mr. Bobo, Administrative Assistant, replied the portion that will be a contributing factor of a greater run-off is the lower end. Councilman Smith stated when this started the concept was the entire length of the creek through the city; he asked if this report covers phase one, and if the Corp of Engineers would go along with extending this? Mr. Bobo replied this was considered and the Council and County Commissioners decided it was not economically feasible so they cut it back to this 7 miles.

Councilman Smith asked if a meeting is planned with the County so that this can be authorized? Mr. Veeder, City Manager, replied a pre-construction conference is planned with the Corp of Engineers as the next step leading towards the construction on their part assuming the completion of the right of way; everything else is sitting on go. The Corp of Engineers has been assured to date of action on the part of the city and county government, and they are planning to come on November 6 for a pre-construction conference. That he understands at the moment there is nothing holding them up.

Mr. Bobo stated the Corp would like for the City to have the right of way in hand by November 6 conference date; if we do, then they will start their construction schedule.

REPORT ON FLOODING OF AREA OFF NORTH TRYON STREET IN HIDDEN VALLEY AREA.

Councilman Alexander stated the flood problem is upon the people again off North Tryon Street in the Hidden Valley Section. He asked if there is no responsibility on anyone's part, especially where storm sewer is involved. That if there is no liability on the city's part that it would be wise to have this stated publicly.

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Mr. Josh Birmingham, Assistant City Engineer, stated some of the houses were built in 1960 in a flood plain area; at that time we had no restrictions on flood plains. The houses are adjacent to a strip of land owned by a private concern and during the course of time he has not seen fit to dredge or clean the creek. Mr. Birmingham stated there are two problems: (1) the houses are low and built in a flood plain; (2) the creek behind them has not been dredged in several years. There are twelve houses involved and there were two or three that had water in them on Sunday; the others had some damage in the yards. That fences along the area cause some of the problems as they catch debris and back up water.

Mr. Birmingham stated there are two things that should be done:

- (1) The creek should be cleaned out. This is a private problem that the city does not have a responsibility in because the property owners are obligated by drainage laws to take care of the water that crosses their property;
- (2) The permanent solution is to raise the floor level of these houses which the Engineering Department advocated in 1965.

He stated they have contacted the property owner several times, along with the Health Department, and asked his cooperation, but he says he is not being damaged by it and he does not think he has the legal responsibility to do this. Mr. Birmingham stated the Engineering Department does not feel it has any laws to force him to do this.

Councilman Alexander requested that this report be given full exposure by the news media so the people will know exactly what the situation is.

Mr. Birmingham stated they have talked to the different people over the past few years and have told them of their recourses through civil action; these houses are sold periodically so you always end up with new homeowners

After further discussion, Mayor Brookshire suggested that Mr. Veeder write the twelve property owners a letter and give them the facts as they relate to the city.

Councilman Short stated he would like to back Mr. Alexander up not only in his reference to creeks but in reference to those situations involving pipe lines and storm sewers where the pipe lines run under private property. It seems there are some instances where property owners can be forced to keep their pipe lines operating and this be assessed against them. That apparently such is not the case where there is just an open creek.

INSPECTION DEPARTMENT REQUESTED TO HAVE WEEDS REMOVED FROM 4600 BLOCK OF DELLE PLAIN DRIVE.

Councilman Short stated a person in an area near Milton Road has asked that the City Inspection Department proceed with such action as it can in reference to the weeds in the 4600 block of Delle Plaine Drive; the area in question is approximately behind the Devonshire School; Councilman Jordan stated this needs to be cleaned out for many reasons; they say that boys from some other schools are molesting girls and they would like this taken care of as soon as possible. Councilman Short stated the grass has grown so tall that unsavory characters seem to be hiding there and it is close to the school.

TRAFFIC ENGINEER REQUESTED TO INVESTIGATE ENTRANCE AT VERSALLIES APARTMENTS ON PARK ROAD.

Councilman Tuttle requested that Mr. Hoose, Traffic Engineer, be asked to check the entrance on the new Versailles Apartments on Park Road; they

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have a very serious situation out there. He requested Mr. Hoose to investigate and see if there are any suggestions he can make for some relief by the property owner or the city.

POLICE DEPARTMENT REQUESTED TO INVESTIGATE TRUCKS WITHOUT TAILGATES.

Councilman Jordan stated trucks are still moving around town carrying trash and garbage without tailgates. That he drove behind one for 1/2 mile and a 2 x 4 fell from the truck. He stated he is sure our Police Department can catch these people and he thinks it should be stopped as it is very dangerous

DISCUSSION OF CHARGE FOR CONTRACTORS TO DUMP DEBRIS INTO LANDFILL.

Councilman Smith stated the other day a contractor asked him why the city does not charge these contractors to dump debris into the city dump; that they charge the people to pick it up and dispose of it; and most other towns charge either a dollar or fifty cents a load.

Mr. Veeder, City Manager, stated this could be done; that on occasion when there are subh regulations as this, it encourages people to dump material other than in a designated area. That this to a degree can be construed as an off-setting thing.

Councilman Smith stated this particular contractor handles a lot of debris and he said these people are filling up the landfill.

Mr. Veeder stated he thinks if you charged anyone, you would have to charge everyone, and this might pose a problem.

Councilman Stegall stated he thinks it is foolish for the city to have to pay a high price for property and then let contractors dump and fill it up; that the city should get something out of it.

DISCUSSION OF EASEMENTS FOR SANITARY SEWER TO SERVE QUEEN CITY SPEEDWAY, INC.

Mr. Veeder, City Manager, stated Council has received a copy of a letter from Mr. Bledsoe on behalf of the Queen City Speedway, Inc., relating to easement for sewer service to the building.

Councilman Short stated he would suggest a course of action on this; Mr. Whittington is not here but he believes he might be amenable to this course of action and that is, if Council could make an effort to find out through prosecution under Section 23-30 of the City Code - the noise portion of the zoning ordinance - and if this were not successful, then Council would want to go ahead with the sewer easements. If the prosecutions were successful, it would be an advantage of all parties concerned to think further about this. If prosecution were successful, he thinks those in charge of the raceway would want to think further about investing their money in further facilities out there.

Councilman Jordan stated he has not been in favor of this race track being there; that he wishes it could have been stopped in the beginning; but he cannot go along with holding the water and sewer up; that Council has a legal obligation there as it has made a commitment to the people.

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Councilman Smith stated based on what Council did at a previous meeting, the administration actually committed this Council to this course of action for sewer. Mr. Veeder stated Council approved a contract. Councilman Smith stated to use this to try to obstruct the race track is really reflecting on Council and the administration.

Councilman Alexander stated he cannot vote to deny them this use after Council legally moved into a contractual agreement on it; that he feels the City is morally obligated to go through with this part of the procedure; that he has no intention of voting against the consummation of that part of our contract. That he thinks we should go ahead and grant this contract.

Councilman Tuttle stated he does not feel he has a moral obligation; these people came before Council and there was quite a hearing on it; then contrary to what he has read in the newspapers, that Council has done nothing, as he recalls ^{at} the hearing there was absolutely nothing the Council could do; this property was properly zoned for this operation and Council could not change that zoning at that time. Mr. Gaskey was warned that he would probably run into trouble if it became a nuisance. That he voted for the sewer line on September 9 and stated at that time that he was voting for the sewer because he could not conceive of that many people out there without proper sewage. That he did not know until later they had a temporary line and that that line was adequate and the line had been checked by the Health Department and the Health Department found nothing wrong with it. That being the case, his attitude has been that of doing nothing to aid and abate this operation.

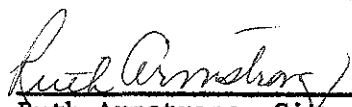
Councilman Jordan stated Mr. Tuttle is voicing the opinion of all the Council Members that none of us like to see the race track there; but as far as the water and sewer, he thinks we are legally committed and that is the reason he is voting that way.

Councilman Alexander stated what is before Council is two different situations; that honoring this contract for sewer has no bearing on a condition of noise that the race track creates - they are two separate and distinct things; that our obligation to go through with the contract for sewer does not affect our position regarding the violation of a noise ordinance if such takes place. The action Council would take on a noise ordinance has no bearing on a contract for sewer; that when we attempt to take one to make it equalize the other, we are out of character as far as our position for determining what is before Council.

Councilman Short stated he does not see this as being all that severable. Apparently this is something they would like to have and need in the same sense they would like to have and need racing cars. The City, under the nature of its D-2 policy, goes into a partnership to provide this for some party, outside the city. That he does not see it is the part of the government to enter into a partnership with an organization on which there is the strong assertion, not resolved, that this is a public nuisance.

ADJOURNMENT.

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


Ruth Armstrong, City Clerk