

October 7, 1968
 Minute Book 51 - Page 35

A regular meeting of the City Council of the City of Charlotte, North Carolina, was held on Monday, October 7, 1968, in Dana Auditorium, Queens College, at 8:30 o'clock p.m., with Mayor Stan R. Brookshire presiding, and Councilmen Fred D. Alexander, Milton Short, Gibson L. Smith, James B. Stegall, Jerry Tuttle and James B. Whittington present.

ABSENT: Councilman Sandy R. Jordan.

* * * * *

INVOCATION.

The invocation was given by Councilman Jerry Tuttle.

MINUTES APPROVED.

Upon motion of Councilman Whittington, seconded by Councilman Short, and unanimously carried, the minutes of the last meeting, on September 23, were approved as submitted.

THREE POLITICAL PARTIES GRANTED PERMISSION TO EQUIP THREE CARS WITH LOUD SPEAKERS FOR CAMPAIGN PURPOSES DURING HOURS OF 9:00 A.M. AND 9:00 P.M., BUT NOT ON SUNDAYS.

Mr. Francisco Rossess requested a permit to place a loud speaker on a car to go through the neighborhoods encouraging people to register to vote as October 14th is the last date for this. Mr. Rossess stated the Democratic Party in the City of Charlotte had a loud speaker on a car, as did Mr. Jones, who is affiliated with the poverty program. He stated he happens to be campaigning for Mr. Wallace, and he feels it is an act of discrimination against the American Party if he is not allowed to have the loud speaker on his car.

Councilman Tuttle asked if the Democrats had permission to use the loud speaker? Mr. Veeder, City Manager, replied the only way to obtain a permit is by approval of the City Council, and to his knowledge there has been no request for a permit of recent date of this type; that he is told there were cars equipped with sound equipment last week when Mr. Humphrey was in town.

Mr. Watts, Assistant City Attorney, advised the ordinance involved is Section 13-52(g) of the Code which reads, in part: "To operate any radio sound producing device along or upon the streets, alleys, or public places within the city. And to operate or permit to operate any automobile with a loudspeaker". These are certain things that are prohibited. But Council may authorize a permit if it so desires.

Councilman Tuttle stated if the Democrats asked for this permission or if the Republicans asked for it, it would be granted, and he thinks we have granted permission by virtue of the fact that cars are using the loud speakers.

Councilman Tuttle moved that permission be granted these people. The motion was seconded by Councilman Whittington.

Councilman Alexander asked if the system will be used only to encourage people to register or will any particular candidate be involved? Mr. Rossess replied the idea was to encourage people to come out and vote; however, if the Humphrey forces and Nixon forces are going to use

October 7, 1968
Minute Book 51 - Page 36

speakers in advancing Nixon and Humphrey for President, then they feel they should have the same opportunity. That they do want to encourage people to get out to vote, but they would like to use it in campaigning for Mr. Wallace - the Democrats and the Republicans have been doing it. Mr. Rossess stated they come tonight to seek a permit and to abide by the law because they realize there is a noise ordinance.

Councilman Stegall asked how many cars they plan to use with the speakers? Mr. Rossess replied he has one on his car; that he is asking for permission to put one on his car; but Charlotte is a large city and it is difficult to cover with one speaker. Councilman Stegall asked if there is a restriction on this or is this an open situation? Mr. Veeder replied that is at the option of the Council.

Councilman Stegall stated there are numerous complaints received in the City Manager's Office regarding public address systems, and when complaints have been received, the people involved have been most cooperative in either turning the public address systems off or they have stayed away from the neighborhoods where the complaints were made. He asked Mr. Rossess if he would be agreeable to refrain from going into particular neighborhoods where complaints are made? Mr. Rossess replied he would; however, how many complaints would be registered? Councilman Stegall stated if it was a general nuisance and a number of complaints were received where they said their children could not sleep, and the City asked Mr. Rossess not to go back into that general area based on general complaints and not political complaints. Mr. Rossess replied he would comply with the request, that he would conduct his campaign at a decent hour and it would not be at 10:00 or 11:00 at night.

After further discussion, Councilman Smith made a substitute motion that Council permit each political party - Democratic, Republican and American - to have at least, but not more than three automobiles equipped with loud speakers for campaign purposes from 9:00 A.M. in the morning to 9:00 P.M. at night, and not on Sunday. The motion was seconded by Councilman Stegall, and carried unanimously.

DISCUSSION OF USE OF HOUSE IN RESIDENTIAL AREAS AS A DAY CARE CENTER BY PERSONS OTHER THAN RESIDENTS.

Mrs. Rosline Williamson stated she lives on Buena Vista Street and she has talked to most of the Councilmen concerning a day care nursery which has been opened next door to her home.

Councilman Whittington stated that Mrs. Williamson has written a letter to the Mayor with copies to the Council; that a Mr. Funderburk who lives on another street has rented a residence next to her for the purpose of running a day care nursery, and this is her concern.

Councilman Stegall asked if at the time this ordinance was enacted the thought was based on the idea that the people who would run the day care center would be living in these residences and it would be a two, three, four or five child operation rather than a business operation as this indicates?

Mr. Fred Bryant, Assistant Planning Director, stated it was not set up this way. In the formulation of the zoning ordinance, a day care center was viewed in the same light as a public school, or any other type of facility caring for and educating children. The day care center was permitted as a use in the residential district the same way as a church would be permitted; there is no direct tie-in as to whether or not the operator lives in the house. There are a number of the larger day care centers that have no residences attached to them.

October 7, 1968
Minute Book 51 - Page 37

Councilman Whittington asked if there is anything in the zoning ordinance to stop this particular occupancy? Mr. Bryant replied as long as it meets the provisions of the zoning ordinances, - the number of children permitted as to the size of the lot - there must be a certain amount of play space per child - as long as these provisions are met, the zoning ordinance would not eliminate them.

Mr. Jamison, Superintendent of Building Inspection, stated he has inspected the house and lot involved and it does comply with the zoning law; the building itself complies with the exception of one or two minor items which the person who is going to run the day care nursery has indicated he will comply with. As far as he knows, the nursery can be operated in accordance with the present laws.

Mrs. Williamson stated her interest is not with the children but with the idea of a house beside her home that will be vacant at night and empty on the weekends. That she does not understand a day care center being called an institution when it is simply a money-making business; that this was a residence when they bought their home.

Councilman Tuttle stated he has talked with Mrs. Williamson about this problem and she is aware of the fact that there is nothing Council can do about this particular case, but he feels she is being very conscientious in being concerned for the future. She simply wants Council to think about this. That as far as he is concerned, this is well taken and Council should give some thought to it, perhaps in considering a day care ordinance.

Councilman Stegall stated he has also talked with Mrs. Williamson and he was not aware that this ordinance was as it is; he feels this is a business anyway you look at it as these people are going into a money-making project and under the proposed ordinance it states there must be so many square feet of play area per child; it does not say front yard or rear yard or side yard, only the number of square feet; that a man could conceivably put a page, or link fence, completely around this lot and use all the square footage of the lot and consequently could have children playing in the front, side and rear yards as well as inside the house which would be detrimental to a neighborhood.

He stated he has ridden by several day care centers since Mrs. Williamson called and observed that some have cement yards and some sand box play areas but have no grass as when the children play in the yards on swings, slides, etc., there is not going to be any grass there. The ones he has seen are well kept, however, they are in areas where normally businesses would be allowed as in the large day care centers. That the consideration of the residents and neighbors out there are of prime importance to Council because Council is always concerned about how the neighborhoods look and how the people take care of their residences.

He stated he would like to see Council do something about this; that when it was considered before it was thought these people would be caring for these children in their own homes with about five or six children and would live there and have an interest in how their homes looked and how their yards appeared. But in this case, this is getting into a business area, and it is not going to look like our houses.

Councilman Short stated apparently the issue is whether day care centers for children would be in residential zones, office zones, business zones or industrial zones; these are the only possibilities. That he cannot quite picture a day care center for children down at the Charlottetown Mall, or some such place and it appears to him that zoners rightfully put day care centers in residential areas and he feels they should stay in residential areas as this is the best place to keep little children.

October 7, 1968
Minute Book 51 - Page 38

Councilman Smith stated he feels Council has overlooked the fact that most homes have deed restrictions which limit the use of a home to a one family single family use. That these people can go into Civil Court if this is violated, This could be their protection rather than zoning if it is being used for something other than a residence.

Mr. Cecil Husky stated they have found there are deed restrictions on this property; that they came tonight with another purpose in mind and they have a question - how can a man and woman quit their jobs and open up a day nursery center and it not be a business?

Councilman Tuttle stated he agrees that a day care center should not be in an industrial district, but this is a case of coming into a residential area and opening up a business; that no one could care less about a place they rent with a fence around it and also a day care center is a five day a week operation and they go and let the weeds grow up on the weekends. They will not care for this place as their home; this is what Mrs. Williamson is concerned about.

ORDINANCE LICENSING AND REGULATING MASSAGE PARLOR, HEALTH SALONS AND SIMILAR ESTABLISHMENTS, DEFERRED FOR ONE WEEK.

Council was advised the proposed new ordinance regulating massage parlor activities differs from the old one in the following two major particulars:

- (a) It makes no exemption for the YMCA or barber shops or similar enterprises. The inclusion of these exemptions in the old ordinance was the fatal flaw rendering it unconstitutional, according to the North Carolina Supreme Court, which called this "favoritism".
- (b) The new ordinance significantly reduces technicalities required for applying for an operating license. It was felt the old requirements were perhaps too severe and would hamper legitimate operations. The new ordinance, like the old one, prohibits the massage of a person of one sex by a person of another sex.

Councilman Whittington asked under Section 6-47 - Qualifications of applicants for license - what qualifications, as far as the training requirements of a masseuse or masseur, are required before qualifying for a license?

Councilman Short stated under the present ordinance Section 6-47 (c) and (d) require an experienced person, or a college diploma. This has been deleted from the proposed ordinance and it seems to him that in keeping certain elements out of this industry, that leaving these requirements in the act would be desirable.

Councilman Tuttle stated the ordinance was turned down because it was thought to be too severe as stated under item (b) above. That he cannot vote on this ordinance as it is and he would want a better explanation.

Councilman Whittington moved that the ordinance be deferred for one week. The motion was seconded by Councilman Tuttle, and carried unanimously.

Councilman Whittington stated that Section 6-54 deals with the hours of operation and they can be open from 8 A.M. to 10 P.M. and he assumes this is seven days a week and he would object to the operations being open seven days a week. In reference to Section 6-57 - Massages by unlicensed persons - it says that operators without licenses may practice this profession if a licensed operator is in attendance; he would question the advisability of this.

October 7, 1968
Minute Book 51 - Page 39

Councilman Short stated he had the same views as Mr. Whittington and he would hope that Mr. Underhill would consider continuing (c) and (d) of Section 6-47 in this ordinance. That apparently it has nothing to do with the matter that was before the Supreme Court.

ORDINANCE NO. 31 AMENDING CHAPTER 13A ENTITLED ANTI-DISCRIMINATION OF THE CODE OF THE CITY OF CHARLOTTE.

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

The ordinance is recorded in full in Ordinance Book 15, at Page 467.

PETITION NO. 68-11 BY LONE STAR BUILDERS, INC. FOR A CHANGE IN ZONING FROM R-15 TO R-15MF OF A TRACT OF LAND ON THE EAST SIDE OF QUAIL HOLLOW ROAD, BEGINNING SOUTH OF SHARON ROAD, DEFERRED.

After an explanation by Mr. Bryant, Assistant Planning Director, that the School Board has proceeded with the construction of the school on this property, but he did not know if the case had been settled in court as to condemnation, Councilman Tuttle moved that the petition be deferred. The motion was seconded by Councilman Stegall and carried unanimously.

PETITION NO. 68-65 BY WILLIE B. EDWARDS, ET AL, FOR A CHANGE IN ZONING FROM R-6MF TO B-2 OF THE ENTIRE BLOCK ON THE SOUTHEAST SIDE OF THE PLAZA, BETWEEN SUGAR CREEK AND SWEETBRIAR STREET, DEFERRED ONE WEEK.

Councilman Tuttle moved that the petition be denied as recommended by the Planning Commission. The motion was seconded by Councilman Short.

Mr. Tom Mullens, Attorney for the petitioners, stated this has appeared on the docket several times incorrectly. This petition is for the southwest side of the Plaza, between Sugar Creek Road and Jensen Street. That at the public hearing he called Council's attention to this. That Sweetbriar is on the other side of the street, the southeast side and backs up to I-2 zoning. This particular property was formerly Highway Place and is directly across from the State Highway equipment sheds. They are asking for an entire block all the way to Jensen Street; there are 18 property owners and it is now surrounded by I-2 zoning.

Mr. Fred Bryant, Assistant Planning Director, stated he would disagree with the fact that it is the southwest side; he very definitely reads the map as being on the southeast side. The difference between Sweetbriar and Jensen Street came about in 1960 when this street was officially changed from Jensen Street to Sweetbriar Street. Apparently the street sign was changed on one side of the street and not on the other so that the street marker reads Jensen, but the official name of the street is Sweetbriar.

After further discussion, Councilman Smith made a substitute motion that the petition be deferred for one week. The motion was seconded by Councilman Whittington.

Councilman Whittington stated about a month ago on his motion, Council asked that the Planning Commission reconsider the zoning on The Plaza, from Parkwood to Eastway Drive as about every other block has some type

October 7, 1968
Minute Book 51 - Page 48

CITY MANAGER AND STAFF REQUESTED TO GIVE FURTHER STUDY TO PROPOSED DEVELOPMENT OF SUGAR CREEK, BETWEEN FOURTH STREET AND PRINCETON AVENUE.

Councilman Tuttle moved that the Council request the City Manager and his staff to give further/^{study}to the proposed development of Sugar Creek, between Fourth and Princeton Avenue; the study will provide general cost estimates and take advantage of the feasibility report which the local chapter of the American Institute of Architects has prepared. Also the study should explore possibilities of utilizing matching federal funds which may be available. This motion is made with full recognition that the work to be done will require some time and should not be given a priority which will be in conflict with development plans for immediate Downtown objectives. The motion was seconded by Councilman Whittington.

Councilman Smith stated he would like to know how the department would proceed; how can you say do not give it any priority and they already have twelve or fifteen priorities right now; where do they go? That this is too vague a motion to really get any action on.

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

YEAS: Councilmen Tuttle, Whittington, Alexander, Short and Stegall.
NAYS: Councilman Smith.

MAYOR BROOKSHIRE LEAVES THE MEETING AND MAYOR PRO TEM WHITTINGTON PRESIDED FOR THE REMAINDER OF THE SESSION.

Mayor Brookshire left the meeting at this time and Mayor pro tem Whittington presided for the remainder of the session.

RESOLUTION THANKING THE NORTH CAROLINA FUND AND THE INSTITUTE OF GOVERNMENT FOR THE SEMINAR AT KANUGA FOR THE CONSOLIDATION STUDY COMMITTEE ADOPTED.

Councilman Short stated during the early part of last week, the Mayor, City Manager and three members of Council attended a seminar at Kanuga which was sponsored by the North Carolina Fund of which Mr. George Esser is Executive Head. The Seminar management and planning was under the control of Mr. Jake Wicker, Mr. Mason Thomas and Mr. Don Haymen of the Institute of Government. This Seminar was valuable in defining the issues that the present Consolidation Study Committee must settle, and in providing those attending a wealth of information in very, very attractive surroundings, all at no expense to the participants.

Councilman Short moved that Council adopt a resolution thanking the North Carolina Fund and thanking the Institute of Government for what they did. The motion was seconded by Councilman Alexander, and carried unanimously.

DISCUSSION OF CLAIM OF CURTIS LEE RAYLEY, ADMINISTRATOR OF THE ESTATE OF CURTIS LEE RAYLEY, Jr.

Councilman Alexander asked if the case concerning the claim of Curtis Lee Railey is to come up tomorrow for trial? Mr. Watts, Assistant City Attorney replied the case is scheduled for trial tomorrow; the city attorney's office has considered the evidence; there is an offer of settlement which is an agreement for settlement

October 7, 1968
Minute Book 51 - Page 49

provided the city will pay \$3,000.00; the suit itself is for \$100,000 although the city would not be liable for more than \$10,000 because of insurance. The City Attorney's office is of the opinion there are possible defenses in this case; and this being true does not recommend that the City settle by paying the \$3,000.00.

Councilman Alexander stated he understands this is an accident that took place where a young man 16 years old was killed, and this occurred on a piece of road that was determined as a dangerous piece of road and was not marked until after the accident took place. That he understands there have been other accidents to cars but not as serious as this - that the other cars were heavier and were able to withstand whatever damage that occurred at the time. This happened to be a small car and was not able to stand up to the damage. The only question he raises is whether or not the existence of a dangerous curve can exist and we have no liability, and then after the accident occurs, it is well marked.

Mr. Watts stated the legal office has considered this and believes that a jury will eventually have to decide the question; they would hope that the jury would determine the city was not negligent. There were markings there and some changes were made after the accident; that he does not believe it is entirely accurate to say there were no markings there as there were some.

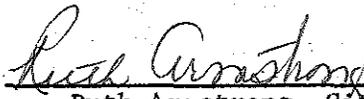
UP-TO-DATE REPORT REQUESTED ON DREDGING OF BRIAR CREEK AND SUGAR CREEK.

Councilman Smith asked the status of the dredging of Briar Creek and Sugar Creek by the Corp of Engineers? Mr. Veeder, City Manager, replied the County is proceeding with the acquisition of necessary easement with some possible success.

Councilman Smith stated the Corp of Engineers offered the City a specific amount of money and he does not want that time to expire; he requested the City Manager to bring an up-to-date report on the project.

ADJOURNMENT.

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


Ruth Armstrong, City Clerk

October 7, 1968
Minute Book 51 - Page 40

of commercial, business or office zoning which he thinks is bad development. That about two years ago Council turned down a shopping center corner for a super market. If Council had gone ahead and allowed that zoning, it would have been much better commercial development than we have now. That he thinks the Planning Commission should reconsider all this property and bring a recommendation back to Council.

Mr. Bryant replied this is exactly what the Planning Commission did. The entire area out to Parkwood was studied and reconsidered. The zoning along The Plaza, from Parkwood to Anderson at the school is solidly zoned for business and there is no residential zoning on The Plaza. The Planning Commission feels this is not the proper zoning and that strip is not developed as it should be.

After further discussion, the vote was taken on the substitute motion and carried unanimously.

PUBLIC HEARING SET FOR MONDAY, OCTOBER 28TH ON ORDINANCES AUTHORIZING THE NECESSARY RECONSTRUCTION OF STORM DRAIN PIPE IN THE 1300 BLOCK OF DOWNS AVENUE.

Motion was made by Councilman Whittington, seconded by Councilman Tuttle, and unanimously carried, setting date of public hearing on Monday, October 28th, on the subject ordinances.

CONSTRUCTION OF SANITARY SEWER MAIN TO SERVE SOUTHERN METAL COMPANY.

Councilman Whittington moved approval of the construction of 205 feet of 8-inch sanitary sewer main to serve Southern Metal Company, on Donald Ross Road, inside the city, at the request of Hy Helbein, at an estimated cost of \$2,030.00, 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 Short, and carried unanimously.

SANITARY SEWER CONNECTION AUTHORIZED.

Upon motion of Councilman Tuttle, seconded by Councilman Stegall, and unanimously carried, the application of Godley Construction Company, 4829 Bellhaven Boulevard, to connect private sanitary sewer lines in Godley Lane and Bellhaven Boulevard, outside the city limits to the city's sanitary sewerage system, was approved.

STREETS TAKEN OVER FOR CONTINUOUS MAINTENANCE.

Motion was made by Councilman Tuttle, seconded by Councilman Whittington, and unanimously carried, approving the following streets to be taken over for continuous maintenance by the City:

- (a) Whistlestop Road, from 180 feet south of Riverbend Road to Sharon Road.
- (b) Smooth Rock Cove, from Whistlestop Road to 390 feet west of Whistlestop Road.
- (c) Terrebonne Cove, from Whistlestop Road to 393 feet west of Whistlestop Road.

October 7, 1968
Minute Book 51 - Page 41

- (d) Petty Road from Whistlestop Road to 190 feet east of Whistlestop Road.
- (e) Mountain Breeze Cove from Whistlestop Road to 260 feet west of Whistlestop Road.
- (f) Springhouse Lane from Rama Road to 235 feet south of Rama Road.
- (g) Sheppard Drive Drive from Rama Road to 307 feet south of Rama Road.
- (h) Jester Lane from Rama Road to 311 feet south of Rama Road.
- (i) Bismark Drive from Rama Road to 307 feet south of Rama Road.
- (j) Barrington Drive from 205 feet north of Woody Glen Place to 90 feet south of Rosecrane Drive.
- (k) Woody Glen Place from Barrington Drive to 540 feet west of Barrington Drive.
- (l) Rosecrane Drive from Barrington Drive to 230 feet east of Barrington Drive.

RESOLUTION AUTHORIZING THE REFUND OF CERTAIN TAXES COLLECTED THROUGH ERROR.

Councilman Alexander moved the adoption of the subject resolution authorizing the refund of certain taxes in the amount of \$10.00 which were collected through clerical error or illegally levied. The motion was seconded by Councilman Stegall, and carried unanimously.

The resolution is recorded in full in Resolutions Book 6, at Page 203.

ORDINANCES ORDERING THE DEMOLITION AND REMOVAL OF DWELLINGS PURSUANT TO THE HOUSING CODE OF THE CITY AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Upon motion of Councilman Whittington, seconded by Councilman Smith, and unanimously carried, the subject ordinances were adopted, as follows:

- (a) Ordinance No. 32-X ordering the demolition and removal of dwelling in the 3200 block of Ross Avenue, Map 145-179-05.
- (b) Ordinance No. 33-X ordering the demolition and removal of dwelling at 322 West Tenth Street, owned by Mary V. Amaty.
- (c) Ordinance No. 34-X ordering the demolition and removal of dwelling at 3127 Seymour Drive, owned by Maude Thompason.
- (d) Ordinance No. 35-X ordering the demolition and removal of dwelling at 2500 Beachmont Avenue, owned by Any Berryhill Heirs.
- (e) Ordinance No. 36-X ordering the demolition and removal of dwelling at 334 South Johnson Street, owned by James Mangum.

The ordinances are recorded in full in Ordinance Book 15, beginning at Page 468.

October 7, 1968
Minute Book 51 - Page 42

ORDINANCES ORDERING THE REMOVAL OF WEEDS AND GRASS PURSUANT TO SECTION 6.103 AND 6.104 OF THE CITY CHARTER, CHAPTER 10, ARTICLE I, SECTION 10-9 OF THE CITY CODE AND CHAPTER 160-200 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Motion was made by Councilman Tuttle, seconded by Councilman Short and unanimously carried, adopting the subject ordinances as follows:

- (a) Ordinance No. 37-X ordering the removal of weeds and grass on property adjacent to 934 McArthur Street.
- (b) Ordinance No. 38-X ordering the removal of weeds and grass on property on the corner of Pennsylvania and Venice Streets.
- (c) Ordinance No. 39-X ordering the removal of weeds and grass on property at the rear of 1900 Jennings Street.
- (d) Ordinance No. 40-X ordering the removal of weeds and grass on property at corner of Ashebrook and Paddock Circle.
- (e) Ordinance No. 41-X ordering the removal of weeds and grass on property adjacent to 2109 Laburnum Avenue.
- (f) Ordinance No. 42-X ordering the removal of weeds and grass on property on the corner of Randolph Road and Heathwood.
- (g) Ordinance No. 43-X ordering the removal of weeds and grass on property adjacent to 5100 Valley Stream Road.
- (h) Ordinance No. 44-X ordering the removal of weeds and grass on property at 1404 East Independence Boulevard.
- (i) Ordinance No. 45-X ordering the removal of weeds and grass on property adjacent to 1004 Pegram Street.
- (j) Ordinance No. 46-X ordering the removal of weeds and grass on property at rear of 1101 South Boulevard.
- (k) Ordinance No. 47-X ordering the removal of weeds and grass on property at 1842 Starita Drive.
- (l) Ordinance No. 48-X ordering the removal of weeds and grass on property at corner of Barrymore and Clintwood Drive.
- (m) Ordinance No. 49-X ordering the removal of weeds and grass on property adjacent to 1812 South Boulevard.

The ordinances are recorded in full in Ordinance Book 15, beginning at Page 473.

MOTION TO ACQUIRE EASEMENTS FOR SANITARY SEWER TO SERVE QUEEN CITY SPEEDWAY FAILED TO PASS FOR LACK OF FOUR AFFIRMATIVE VOTES.

Motion was made by Councilman Whittington, seconded by Councilman Short, and unanimously carried, to consider the following transactions separate from the other property transactions:

- (a) Acquisition of easement of 7,007.8 square feet in Berryhill Township, south side of West Boulevard, from Georgie S. Grey, at \$710.00, for sanitary sewer to serve Queen City Speedway, Inc.

- (b) Acquisition of easement of 9,350.2 square feet, in Berryhill Township, south side of West Boulevard, from Sara S. Morrison and husband, W. H. Morrison, at \$940.00, for sanitary sewer to serve Queen City Speedway, Inc.
- (c) Acquisition of easement of 50 square feet, on West Boulevard, from Queen City Speedway, Inc., at \$1.00, for sanitary sewer to serve Queen City Speedway, Inc.

Councilman Whittington moved that the acquisition of the three listed easements be denied. The motion was seconded by Councilman Short.

Mr. Ralph Kinsey, Attorney representing Queen City Speedways, stated they have made their deposit and it has been accepted by the City. The lines have been laid and the system is operating functionally. He stated he had understood that since the system is in and the contract had been signed with the City, there would be no objections to the acquisition of the easements. That all expenses have been borne by Queen City Speedway. He asked that Council treat them with an equal hand under the law and an equal application, not only with the noise ordinance but with respect to the governmental functions the city provides its other corporate citizens in the extension of sewer and the acquisition of the right of way for the sewer. Mr. Kinsey stated they are operating nothing at the race track at this time since it has been declared a nuisance; they have planned the acceptable restaurant facilities and sewer facilities recommended by the City Building Inspection Department.

The City Manager advised Council the City has a contract with this corporation for the installation of this sewer - 100% of which is at their expense. The fact that we have an executed contract obligates the city to proceed with the acquisition of these easements, the cost of which is a part of the contract and is being borne by the other party.

Councilman Alexander made a substitute motion to approve the acquisition of the subject properties. The motion was seconded by Councilman Smith.

After further discussion, the vote was taken on the substitute motion and failed to carry for the lack of four affirmative votes, as follows:

- YEAS: Councilmen Smith and Alexander.
- NAYS: Councilmen Short, Whittington and Tuttle.

Councilman Stegall abstained from voting.

PROPERTY TRANSACTIONS, AUTHORIZED.

Motion was made by Councilman Short, seconded by Councilman Stegall, and unanimously carried, approving property transactions, as follows:

- (a) Acquisition of easement of 245.7 square feet of Southwest Boulevard, from Spangler Land Company, at \$25.00 for sanitary sewer to serve Southwest Boulevard.
- (b) Acquisition of 3,477.9 square feet of property at the northeast corner of South Boulevard and Remount Road, from Humble Oil and Refining Company, at \$13,000.00 for South Boulevard Intersections Project.

October 7, 1968
Minute Book 51 - Page 44

- (c) Acquisition of approximately 17,022 square feet of property at 509-17 West Fourth Street, from the Pearl McNeil Estate, at \$85,000.00, for the West Third Street and Fourth Street Connector.
- (d) Acquisition of 3,600 square feet of property at 212-14 South Graham Street, from Baseleke Kokenes, widow and heirs of Constantionos Kokenes, at \$7,800.00, for the West Third Street and Fourth Street Connector.
- (e) Acquisition of 14,700 square feet of property on Berryhill Lane, Route 4, from Robert N. Moffitt and wife, Mary S. Moffitt, at \$12,600.00 for the Airport Expansion.
- (f) Acquisition of 13,515 square feet of property on Berryhill Lane, Route 4, from Forest C. Garver and wife, Barbara D. Garver, at \$11,750.00, for the Airport Expansion.
- (g) Acquisition of an easement of 600 square feet on South Independence Boulevard, from Charlottetown, Inc., at \$1.00, for the Sugar Creek Outfall.
- (h) Acquisition of 31,753 square feet of property at 1013-17 Pharr Street, from Mrs. E. L. Keesler Estate, at \$7,500.00, for the Northwest Freeway.
- (i) Resolution authorizing condemnation proceedings for acquisition of property of Henry Hayman and wife, Rose Hayman, located at 1215 East Seventh Street for the Northwest Freeway.

The resolution is recorded in full in Resolutions Book 6, at Page 205.

APPRAISAL CONTRACT AUTHORIZED WITH CHARLES E. OWENS.

Councilman Short moved approval of a contract with Charles E. Owens for appraisal of one parcel of land for the Woodlawn Road Widening. The motion was seconded by Councilman Tuttle, and carried unanimously.

CHANGE ORDER IN CONTRACT WITH COLTER & CHAPPELL ELECTRIC COMPANY FOR PROJECT 17 AT AIRPORT.

Upon motion of Councilman Tuttle, seconded by Councilman Whittington, and unanimously carried, Change Order No. 1, in contract with Colter & Chappell Electric Company for FAAP Project 9-31-017-17 at the airport, increasing the contract price by \$2,010.00, was authorized.

BASIC CONTRACT WITH J. N. PEASE ASSOCIATES FOR GENERAL ENGINEERING SERVICES IN CONNECTION WITH WATER AND SEWER IMPROVEMENTS AUTHORIZED EXTENDED FOR PERIOD OF TWO YEARS.

Councilman Tuttle moved approval of the subject contract with the engineering fee to be derived from Capital Improvement Funds at the basic rate of 6% of the construction cost. The motion was seconded by Councilman Whittington and carried unanimously.

October 7, 1968
Minute Book 51 - Page 45

SUPPLEMENTARY CONTRACT WITH HOBART SMITH CONSTRUCTION COMPANY FOR CONSTRUCTION OF WATER MAINS AUTHORIZED.

Motion was made by Councilman Short approving a supplementary contract with Hobart Smith Construction Company, dated August 2, 1965, for the construction of 1,145 feet of water mains and one fire hydrant to serve Section 9 of Hidden Valley Subdivision inside the city, at an estimated cost of \$3,300.00, with the City to finance all construction costs and the applicant to guarantee an annual gross water revenue equal to 10% of the total construction cost. The motion was seconded by Councilman Alexander and carried unanimously.

RIGHT OF WAY AGREEMENT WITH SEABOARD COASTLINE RAILROAD COMPANY AUTHORIZED EXECUTED.

Councilman Tuttle moved that the Mayor and City Clerk be authorized to execute a right of way agreement with the Seaboard Coastline Railroad Company for the construction of water mains in Rama Road to cross their tracks. The motion was seconded by Councilman Stegall, and carried unanimously.

ENCROACHMENT AGREEMENT WITH STATE HIGHWAY COMMISSION AUTHORIZED.

Motion was made by Councilman Whittington, seconded by Councilman Short, and unanimously carried, authorizing the Mayor and City Clerk to execute an encroachment agreement with the State Highway Commission for the installation of an eight inch water main in Rama Road, located between Charing Place and Monroe Road.

RESOLUTION GRANTING POWER OF ATTORNEY TO THE CHIEF OF POLICE FOR THE SOLE PURPOSE OF EXECUTING FORMS REQUIRED BY FEDERAL LAW RELATING TO THE USE OF SPIRITS FREE OF TAX.

Motion was made by Councilman Tuttle, seconded by Councilman Short, and unanimously carried, adopting the subject resolution. The resolution is recorded in full in Resolutions Book 6, at Page 204.

TRANSFER OF CEMETERY LOTS.

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

- (a) Deed with Mrs. June Puckett Sorrells for Lot No. 346, Section 6, Evergreen Cemetery, at \$320.00.
- (b) Deed with George E. Sugar for Lot No. 402, Section 4-A, Evergreen Cemetery, at \$189.00.
- (c) Deed with Miller and Kerns Funeral Directors for Grave No. 3, in Lot No. 168, Section 2, Evergreen Cemetery, at \$60.00.
- (d) Deed with Miller and Kerns Funeral Directors for Lot No. 322, Section 2, Evergreen Cemetery, at \$480.00.
- (e) Deed with Franklin J. Sieber for Graves No. 8 and 9, in Lot No. 14, Section 2, Evergreen Cemetery, at \$120.00.
- (f) Deed with Mrs. Lucille Wallace for Grave No. 12, in Lot No. 13, Section 2, Evergreen Cemetery, at \$60.00.

October 7, 1968
Minute Book 51 - Page 46

CONTRACT AWARDED ATLANTIC ENVELOPE COMPANY FOR WATER BILL ENVELOPES.

Councilman Whittington moved award of contract to the low bidder, Atlantic Envelope Company, in the amount of \$5,086.08, on a unit price basis for water bill envelopes. The motion was seconded by Councilman Tuttle, and carried unanimously.

The following bids were received:

Atlantic Envelope Company	\$5,086.08
Henley Paper Company	5,110.84
Double Envelope Company	5,489.52

CONTRACT AWARDED PALMER'S ROWAN STATIONERS, INC. FOR CITY AUTOMOBILE LICENSE DECALS.

Upon motion of Councilman Tuttle, seconded by Councilman Alexander, and unanimously carried, contract was awarded the low bidder, Palmer's Rowan Stationers, Inc., in the amount of \$4,326.00, for an estimated yearly requirement of city automobile license decals.

The following bids were received:

Palmer's Rowan Stationers, Inc.	\$4,326.00
Weldon, Williams, & Lick, Inc.	4,373.60
Data Forms & Systems, Inc.	4,462.92
Jordan Business Forms Co., Inc.	5,013.40
Screencraft, Inc.	5,446.00
Weisz Decalominia, Inc.	5,978.00

CONTRACT AWARDED MATERIAL HANDLERS, FOR ONE JIB CRANE AND HOIST.

Motion was made by Councilman Whittington awarding contract to the low bidder, Material Handlers, Inc., in the amount of \$1,742.00, for one jib crane and hoist for Water Department. The motion was seconded by Councilman Tuttle and carried unanimously.

The following bids were received:

Material Handlers, Inc.	\$1,742.00
Automated Handling Systems, Inc.	1,964.56

CONTRACT AWARDED CUMMINS DIESEL SALES CORPORATION FOR EMERGENCY DIESEL ENGINE GENERATOR INSTALLED.

Councilman Whittington moved award of contract to the only bidder, Cummins Diesel Sales Corporation, in the amount of \$13,194.00, for one emergency diesel engine generator installed. The motion was seconded by Councilman Tuttle, and carried unanimously.

CONTRACT AWARDED PRISMO SAFETY CORPORATION FOR HIGH VISCOSITY PAVEMENT MARKING COMPOUND.

Motion was made by Councilman Stegall awarding contract to Prismo Safety Corporation in the amount of \$27,920.00, on a unit price basis, for high viscosity pavement marking compound. The motion was seconded by Councilman Tuttle, and carried unanimously.

The following bids were received:

Baltimore Paint & Chemical Corp.	\$27,160.00
Prismo Safety Corporation	27,920.00
Armstrong-Smith Paints	31,600.00

October 7, 1968
Minute Book 51 - Page 47

PROGRESS REPORT ON TRAFFIC SIGNALS AT CORNER OF KILBORNE AND EASTWAY DRIVE AND CORNER OF SUGAR CREEK ROAD AND HIDDEN VALLEY ROAD.

Councilman Whittington asked for a progress report on the installation of the traffic signals at Kilborne Drive and Eastway Drive and Sugar Creek and Hidden Valley Road.

Mr. Veeder, City Manager, stated at Kilborne and Eastway Drive the poles are to be set before the end of the week and the signal will be in operation the first of the week. At Sugar Creek and Hidden Valley, he had hoped to have the municipal agreement covering this before Council tonight. Based on the conversation he had late this afternoon with Mr. Webb, of the State Highway Department, the agreement will not be ready until next Monday; part of this agreement will deal with the signalization of Hidden Valley and the Sugar Creek Intersection. That it will take about 30 days after that for the installation.

DISCUSSION OF OVERHEAD PEDESTRIAN WALKWAYS.

Councilman Whittington stated last week he asked Mr. Cheek, City Engineer, to contact the State Highway Commission and get a figure on the cost of the overhead walkway at Shelby on Highway 74. That Mr. Cheek reports the cost was approximately \$44,000; that the bridge is caged with a chain link fence and is also lighted; also, there is a similar bridge across Peters Creek Parkway in Winston Salem which was constructed at a cost of \$36,200.00. Councilman Whittington stated Mr. Cheek reports that the State Highway Commission is currently considering a design utilizing pre-cast concrete beams for use in a similar situation in Gastonia; they expect the design to result in a more economical construction cost, and Council will be kept informed concerning the proposed work in Gastonia and the Engineering Department has requested the City of Winston Salem to forward copies of their construction plan for the pedestrian bridge.

Councilman Whittington stated this is good information, but he believes Mr. Cheek could go out to Construction Materials and get all the information he needs, and then Council would have something on which to make a decision. That he thinks this decision is important and should be forthcoming, not next year, but as soon this year as the city can do it, or that it can find the money to do it, and he asked that the City Manager have Mr. Cheek to go ahead and not wait until next year on the State and give Council something now.

Mr. Veeder, City Manager, stated the cost will vary among locations based on topography, and the width of the pavement to be crossed; that in order to be specific on cost, perhaps it could be related to specific locations.

Councilman Whittington stated he thinks the City should find a way to get across Eastway Drive in the vicinity of the creek and the Park; Independence Boulevard in the vicinity of Briar Creek and Independence; and the Plaza and Independence Boulevard. That these are three locations he can mention now.

Mr. Veeder stated with the three locations preliminary cost estimates can be made; also, part of this can be funded out of the Topics Program.

Mr. Hoose, Traffic Engineer, stated the Topics Program is also considering a location at Johnson C. Smith University, and they are in the process of making a report on pedestrian walkways using aluminum, steel and pre-stressed concrete.

October 7, 1968
Minute Book 51 - Page 48

CITY MANAGER AND STAFF REQUESTED TO GIVE FURTHER STUDY TO PROPOSED DEVELOPMENT OF SUGAR CREEK, BETWEEN FOURTH STREET AND PRINCETON AVENUE.

Councilman Tuttle moved that the Council request the City Manager and his staff to give further ^{study} to the proposed development of Sugar Creek, between Fourth and Princeton Avenue; the study will provide general cost estimates and take advantage of the feasibility report which the local chapter of the American Institute of Architects has prepared. Also the study should explore possibilities of utilizing matching federal funds which may be available. This motion is made with full recognition that the work to be done will require some time and should not be given a priority which will be in conflict with development plans for immediate Downtown objectives. The motion was seconded by Councilman Whittington.

Councilman Smith stated he would like to know how the department would proceed; how can you say do not give it any priority and they already have twelve or fifteen priorities right now; where do they go? That this is too vague a motion to really get any action on.

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

YEAS: Councilmen Tuttle, Whittington, Alexander, Short and Stegall.
NAYS: Councilman Smith.

MAYOR BROOKSHIRE LEAVES THE MEETING AND MAYOR PRO TEM WHITTINGTON PRESIDED FOR THE REMAINDER OF THE SESSION.

Mayor Brookshire left the meeting at this time and Mayor pro tem Whittington presided for the remainder of the session.

RESOLUTION THANKING THE NORTH CAROLINA FUND AND THE INSTITUTE OF GOVERNMENT FOR THE SEMINAR AT KANUGA FOR THE CONSOLIDATION STUDY COMMITTEE ADOPTED.

Councilman Short stated during the early part of last week, the Mayor, City Manager and three members of Council attended a seminar at Kanuga which was sponsored by the North Carolina Fund of which Mr. George Esser is Executive Head. The Seminar management and planning was under the control of Mr. Jake Wicker, Mr. Mason Thomas and Mr. Don Haymen of the Institute of Government. This Seminar was valuable in defining the issues that the present Consolidation Study Committee must settle, and in providing those attending a wealth of information in very, very attractive surroundings, all at no expense to the participants.

Councilman Short moved that Council adopt a resolution thanking the North Carolina Fund and thanking the Institute of Government for what they did. The motion was seconded by Councilman Alexander, and carried unanimously.

DISCUSSION OF CLAIM OF CURTIS LEE RAILEY, ADMINISTRATOR OF THE ESTATE OF CURTIS LEE RAILEY, Jr.

Councilman Alexander asked if the case concerning the claim of Curtis Lee Railey is to come up tomorrow for trial? Mr. Watts, Assistant City Attorney replied the case is scheduled for trial tomorrow; the city attorney's office has considered the evidence; there is an offer of settlement which is an agreement for settlement

October 7, 1968
Minute Book 51 - Page 49

provided the city will pay \$3,000.00; the suit itself is for \$100,000 although the city would not be liable for more than \$10,000 because of insurance. The City Attorney's office is of the opinion there are possible defenses in this case; and this being true does not recommend that the City settle by paying the \$3,000.00.

Councilman Alexander stated he understands this is an accident that took place where a young man 16 years old was killed, and this occurred on a piece of road that was determined as a dangerous piece of road and was not marked until after the accident took place. That he understands there have been other accidents to cars but not as serious as this - that the other cars were heavier and were able to withstand whatever damage that occurred at the time. This happened to be a small car and was not able to stand up to the damage. The only question he raises is whether or not the existence of a dangerous curve can exist and we have no liability, and then after the accident occurs, it is well marked.

Mr. Watts stated the legal office has considered this and believes that a jury will eventually have to decide the question; they would hope that the jury would determine the city was not negligent. There were markings there and some changes were made after the accident; that he does not believe it is entirely accurate to say there were no markings there as there were some.

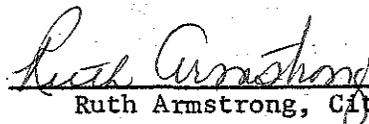
UP-TO-DATE REPORT REQUESTED ON DREDGING OF BRIAR CREEK AND SUGAR CREEK.

Councilman Smith asked the status of the dredging of Briar Creek and Sugar Creek by the Corp of Engineers? Mr. Veeder, City Manager, replied the County is proceeding with the acquisition of necessary easement with some possible success.

Councilman Smith stated the Corp of Engineers offered the City a specific amount of money and he does not want that time to expire; he requested the City Manager to bring an up-to-date report on the project.

ADJOURNMENT.

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


Ruth Armstrong, City Clerk