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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber in the City Hall, on Wednesday, April 24, 1957, at 4 o'clock p.m., with Mayor Van Every presiding, and Council members Albea, Baxter, Brown, Dellinger, Evans, Smith and Wilkinson being present.

ABSENT: None

INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Smith, seconded by Councilman Brown and unanimously carried, the Minutes of the last meeting of the City Council on April 17th were approved as submitted.

ORDINANCE NO. 384 REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE DOUGLAS MUNICIPAL AIRPORT BY CREATING AIRPORT APPROACH, TURNING AND TRANSITION ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR ENFORCEMENT; ESTABLISHING BOARD OF APPEALS, AND IMPOSING PENALTIES.

The hearing in connection with the zoning of Douglas Municipal Airport and Surrounding Area, continued from April 17th, was held, and the City Attorney advised that an amendment has been prepared to the Clear Zone provision of the Ordinance, under Section 4 thereof, which eliminates the Clear Zone at the ends of the non-instrument Runway 18-36 and eliminates the Clear Zone at the northeast end of the instrument runway.

Mr. R. E. Wardlow, Attorney for Miller Motor Express, who at the meeting on April 17th protested the Clear Zone provision as it affected Runway 18-36, as half of the Company's property was within that area, stated as he now understands it, the amendment would solve their problem; however, they must still comply with 50.1 slope - in other words, they can erect their proposed buildings but must comply with the Approach requirements. The City Attorney advised him that this is correct.

Mr. John D. Shaw, City Attorney, asked Mr. Herbert Spencer, Engineer for the Civil Aeronautics Administration, if the C.A.A. consents to the elimination of the Clear Zone on the northeast end of the big runway, and Mr. Spencer replied that they did.

Mr. Allen Bailey, Attorney representing E. R. McCoy and McCoy Service Company, asked if the gas tanks of his client, located within the area on the Old Dowd Road, would be affected by the ordinance. He was advised that they are below the level of the runway and would, therefore, not be affected.

Councilman Dellinger asked as to the status of non-conforming structures in the area: Mr. Shaw replied that they may remain but cannot be altered in any manner. Mr. Spencer advised that no change or repair of any nature may be made in a building prior to reporting the proposed change to the C.A.A. and that there is a \$500.00 penalty for such non-reporting.

Councilman Brown asked if McCoy Service Company may put in additional tanks? Mr. Quinn, Airport Manager, replied that they may not do so.

Corrected at meeting 5-1-57 to read ... "replied yes, they may do so as long as the tanks are no higher than those presently installed on the site".

Mr. Albert F. Sloan stated that the property of his mother and of himself is located in the amended Clear Zone, about 600 feet off runway 18-36 but their land is approximately 10 feet higher than the runway, and their property is on a level 44 feet above the end of the runway and in a 40.1 slope. He asked what they were to do? Mr. Shaw advised that the N.C. Statutes (63-36) provides that the City is liable for damages to such property and for the expense of settlement either by negotiation or condemnation proceedings. Mr. Sloan stated they wish to cooperate with the City in every possible manner and not stand in the way of the progress of the Airport, however, at the same time they cannot lose money on their property.

Mr. John Newitt, Attorney, stated he represented 127 property-owner farmers in the Dixie Community, and he filed Notice, signed by these persons, of the loss they have sustained and may sustain by reason of certain statements made whereby their lands and properties have been threatened with zoning and limitation of use, so that no structures, or only limited structures can be erected on their real property. That they give further notice that in certain instances their existing structures have been damaged in that they cannot sell their real property and cannot obtain loans to improve or add additional rooms thereto or obtain loans thereon where there are threats of height zoning, without corresponding payment of damages by the city for such seizure of uses. That they believe that any restriction of use of their real property which lies far beyond the city limits, and which adjoins an airport operated for the airport users and industries, would be the taking of their real property and the law requires just compensation for such taking. That they give notice that to zone the real property so that there is a serious restriction of the use, either by height, light, contour or other use, is beyond the powers of the City of Charlotte unless just compensation is paid and the property condemned as in the case of Eminent Domain proceedings and such condemnation must proceed by deposit of damages before such property is subject to threats of zoning and lack of use, as well as limitation of use. That they further notify the City that to use their real property by limiting the height of structures and height of trees and other things on their property, is the equivalent of making an air highway of their real property, whereby they are required to limit the use of their property while the residents of Charlotte are not required to limit the use of theirs as to height or use. That if a land highway cannot be cut

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through their property without just compensation, they contend that an air highway cannot be imposed on their lands by limiting the use of their lands without just compensation to the land owners. That they, therefore, respectfully pray that the Council will retract their statement that they intend to impose an air highway over the lands of these petitioners without just compensation and that if the Council desires the land of these petitioners, they will proceed by Eminent Domain proceedings as the law provides in General Statutes of N.C., 63-36.

Mr. Newitt stated that Section 63-33 of the State Statutes provides that a notice of public hearing in connection with zoning must be given at least 15 days, and the Dixie citizens state that no such 15 days notice of the time and place of the hearing was given to them, and they felt that such hearing should be held at a place convenient to them, and have such advance notice that they can consider what the effects of the zoning may be, whether such action is constitutional and whether the City or County is the proper political subdivision to conduct the hearing. He stated further that if the Federal Government is offering a large sum of money to the airport operations by private airport owners, then this sum of money should be used to purchase under Eminent Domain the additional land needed for such additional projects.

The City Attorney stated that the proper notice was published in The Charlotte Observer for a period of some fifteen days, and an affidavit of the said publication was given to Mr. Newitt.

Councilman Baxter moved the adoption of Ordinance No. 384 as amended zoning the airport property and surrounding area. The motion was seconded by Councilman Wilkinson and unanimously carried. The ordinance is recorded in full in Ordinance Book 12, at Pages 144 - 148.

PARTICIPATION OF ELKS CLUB IN CHARLOTTE REHABILITATION & SPASTICS HOSPITAL APPROVED.

Upon motion of Councilman Brown, seconded by Councilman Baxter, and unanimously carried, the Council approved the participation in the Charlotte Rehabilitation & Spastics Hospital by the Charlotte Elks Club, as set forth in the letter dated April 17, 1957 to the City Manager signed by Mr. M. E. Pierson for the Hospital and Mr. Thomas Smart for the Elks Club.

RESOLUTION IN MEMORY OF MR. RAY D. KIMEL.

A resolution entitled: "Resolution in Memory of Mr. Ray D. Kimel" was introduced by Councilman Smith, who moved its adoption. The motion was seconded by Councilman Dellinger, and unanimously carried. The resolution is recorded in full in Resolutions Book 3, at Page 65.

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CITY MANAGER DIRECTED TO CONFER WITH STATE HIGHWAY COMMISSION AND CITY ENGINEER AND WORK OUT ARRANGEMENT WHEREBY PROPERTY OWNERS AT STONEWALL AND INDEPENDENCE BOULEVARD CAN EFFECT INGRESS AND EGRESS TO THEIR PROPERTY, NOW HAMPERED BY LARGE ISLANDS ON CURVE.

Councilman Dellinger stated that a bad situation exists at the corner of Stonewall Street and Independence Boulevard in that the island on the curve is too large and residents on the corner are not able to get into their property from the street. He moved that the City Manager confer with the State Highway Commission and the City Engineer and work out some arrangement so that the property owners can effect egress and ingress to their property.

RESOLUTION MEMORIALIZING THE GENERAL ASSEMBLY TO ENACT ENABLING LEGISLATION FOR THE EXTENSION OF THE CHARLOTTE CITY LIMITS.

A resolution entitled: "Resolution Memorializing The General Assembly To Enact Enabling Legislation For the Extension Of The Charlotte City Limits" was introduced by Councilman Baxter, who moved its adoption. The motion was seconded by Councilman Smith, and unanimously carried. The resolution is recorded in full in Resolutions Book 3, at Page 66.

CONSTRUCTION OF SANITARY SEWERS IN SAINT PAUL STREET APPROVED.

Upon motion of Councilman Dellinger, seconded by Councilman Wilkinson, and unanimously carried, the construction of 160-feet of sanitary sewer main was authorized in Saint Paul Street, to serve six vacant lots, at the request of Ervin Construction Company, at an estimated cost of \$430.00. All costs to be borne by the City, and applicant's required deposit of the full amount to be refunded as per the contract.

CONTRACT WITH JOHN CROSLAND COMPANY FOR INSTALLATION OF WATER MAINS IN JAMESTON DRIVE, AUTHORIZED.

Councilman Albea moved approval of a contract with John Crosland Company for the installation of 1,210-feet of water mains and two hydrants in Jameston Drive, at an estimated cost of \$3,800.00. All costs to be borne by the City, and Applicant to guarantee a gross annual water revenue equal to 10% of the total cost. The motion was seconded by Councilman Brown, and unanimously carried.

CONTRACT AWARDED PAUL & CRYMES FOR 385 PAIRS OF ICE SKATES.

Upon motion of Councilwoman Evans, seconded by Councilman Smith, and unanimously carried, contract was awarded Paul & Crymes, Inc., for 165 pairs of C.C.M. men's figure type ice skates, 150 pairs ladies figure type ice skates, 35 pairs boys figure type ice skates and 35 pairs girls figure type ice skates, all as specified, at a total price of \$5,276.25, subject to cash discount of \$52.76. The low bid of Hyde Athletic Shoe

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Company at \$4,753.50 was not accepted, as the skate boots bid on by them were leather soled, whereas those bid on by Paul & Crymes were rubber soled, treated with two extra reinforcements on each side at the point of instep, which in the opinion of the Purchasing Agent and Coliseum Manager, is more advantageous from the durability standpoint.

The bids submitted on the Skates were as follows:

Hyde Athletic Shoe Company, Cambridge, Mass.	\$4,753.50
Faul & Crymes, Inc., Charlotte, N. C.	\$5,276.25
Less cash discount	52.76
	<u>\$5,223.49</u>

CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED,

Upon motion of Councilman Dellinger, seconded by Councilman Smith, and unanimously carried, the construction of driveway entrances was authorized at the following locations:

- (a) Two 28 ft. driveway entrances at 2324 LaSalle Street.
- (b) Three 35-ft. driveway entrances on E. 11th Street and Two 25-ft. and One 30-ft. on N. College Street, all for 130 East 11th Street.
- (c) Two 35-ft. driveway entrances on W. Independence Boulevard and Two 35-ft. on South Summit Avenue, all for 1101 West Independence Boulevard.

TRANSFER OF CEMETERY LOTS,

Motion was made by Councilman Brown, seconded by Councilman Smith, and unanimously carried, authorizing the Mayor and City Clerk to execute deeds for the transfer of the following cemetery lots:

- (a) Deed with Mrs. Myrtle G. Chappell and William H. Chappell, Jr., for Lot 129, Section 4-A, in Evergreen Cemetery, at \$126.00.
- (b) Deed with Mrs. Helen Raick and Mrs. Marcella Flowe, for Lot 142, Section 2, in Evergreen Cemetery, at \$160.00.
- (c) Deed with Mrs. Johnsie H. Finkle, for Lot 302, Section 4-A, in Evergreen Cemetery, at \$126.00.
- (d) Deed with Claude V. Oates, for Grave #4 in Lot 84, Section 3, Evergreen Cemetery, at \$40.00.
- (e) Deed with Mrs. Latrille P. Wamsley, for Graves #1 and #2 in Lot 85, Section 3, Evergreen Cemetery, at \$80.00.
- (f) Deed with Gordon L. Vaughn and wife, for Lot 263, Section 2, Evergreen Cemetery, transferred from E.T. McClain, at \$1.00 for transfer.

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CLAIM OF MRS. BERTHA ORR FOR INJURIES REFERRED TO CITY ATTORNEY.

The City Manager advised that Notice has today been received from Mr. John G. Plumides, Attorney, for the claim in the amount of \$25,000.00 by his client, Mrs. Bertha Orr, for injuries sustained on April 20, 1957, from falling on the sidewalk in the 100 block of North College Street, alleged to have been caused by a broken place in the sidewalk. Councilman Baxter moved that the claim be referred to the City Attorney, which was seconded by Councilman Dellinger, and unanimously carried.

ADJOURNMENT.

Upon motion of Councilman Brown, seconded by Councilwoman Evans, and unanimously carried, the meeting was adjourned.


Lillian R. Hoffman, City Clerk