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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber, City Hall, on Wednesday, February 3, 1954, at 4 o'clock p.m., with Mayor Van Every presiding, and Councilmen Albea, Baxter, Boyd, Brown, Dellinger, Smith and Wilkinson present.

Absent: None.

INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Smith, seconded by Councilman Wilkinson, and unanimously carried, the Minutes of the last meeting were approved as submitted.

RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS ON QUEENS ROAD WEST.

The Resolution Authorizing Permanent Improvements on Queens Road West, by installing concrete combination curb and gutter along both sides of a planting strip that separates the traffic lanes in the center of the roadway, which was introduced at the meeting on January 27th, was presented for the consideration of the Council. Councilman Brown moved the adoption of the resolution, which was seconded by Councilman Baxter, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 169.

RESOLUTION APPOINTING APPRAISERS IN CONNECTION WITH QUEENS ROAD WEST IMPROVEMENTS.

A resolution entitled: "Resolution Appointing Appraisers in Connection with Queens Road West Improvements" was introduced and read. Councilman Brown moved the adoption of the resolution, which was seconded by Councilman Smith and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 171.

PROponents AND OPPONENTS OF SUNDAY OBSERVANCE LAW REQUESTED TO ASK COUNTY COMMISSIONERS TO FORCE COUNTY MOTION PICTURE OPERATORS OUTSIDE CITY LIMITS TO CONFORM TO THEATRE SCHEDULES IN CHARLOTTE.

At the hearing in connection with the proposed amendment to the Sunday Observance Ordinance, a large delegation of religious leaders appeared in opposition to changing the law between the hours of 6:30 and 9 o'clock p.m. Mayor Van Every announced that the City Council suggests that the Mecklenburg County Commissioners be requested to fix the hours for Motion Picture Theatres outside the limits of Charlotte to conform with the schedule of the theatres in Charlotte, so that there will be no discrimination in the time of showings in the City and County, and that the Council will hold in abeyance the proposed amendment to the Sunday Ordinance until the Commissioners have been contacted.

In answer to the inquiry of Councilman Boyd if the County Commissioners have the legislative power to control the hours of these Motion Picture Operators, Mr. John D. Shaw, City Attorney stated that he did not think the Commissioners had such authority. Councilman Boyd stated that it would then be a vain effort for the Churchmen to present the matter to the Commissioners, and he suggested that the proponents of the change present the proposed amendment.

Councilman Baxter advised that the proposed amendment was based solely on the matter of discrimination between the motion picture theatres inside and outside the city limits. He presented the following proposed ordinance:

"AN ORDINANCE AMENDING SUNDAY
OBSERVANCE ORDINANCE SO AS TO
PERMIT CERTAIN ACTIVITIES AFTER
1:30 P. M. ON SUNDAYS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. That, Chapter 19, Article III, entitled "Sunday Observance", Section 46, of the City Code of the City of Charlotte (O. B. 10) be amended, by striking out in lines 19 and 20 thereof, the following words: "between the hours 1:30 P. M. and 6:30 P. M. Eastern Standard Time, and after the hour of 9 P. M. Eastern Standard Time", and substituting in lieu thereof, the following:

'after the hour of 1:30 P. M. Eastern Standard Time'.

Section 2. This Ordinance shall be in full force and effect from and after its adoption."

Mr. Fred Hasty, Attorney representing the Charlotte members of the N. C. and S. C. Theatre Association, stated they own all of the Motion Picture Theatres in Charlotte; that the business is not as lucrative as it once was, and that 200 theatres in North and South Carolina have closed, two of which were in Charlotte, and the Theatre Owners, who are large taxpayers, feel there is discrimination in the business as the theatres just outside the city limits operate unrestricted in competition with the Charlotte Theatres. That there are Beer Parlors operating in Charlotte from 7:30 a.m. to midnight on Sunday; that the Radio Stations operate from early morning to midnight and the Television Stations from noon on Sunday to midnight, showing similar pictures to those of the Motion Picture Houses, and the Theatre Owners feel they should be given the same opportunity to operate their business, by the City Council. He cited nine cities in North Carolina that permit theatres to operate on Sunday from 6 o'clock p.m. to midnight.

Mr. Hasty declared that the question is not one of religion but of government, and it is not a question for the City Council to decide as to whether or not a person shall go to Church, that is entirely up to the individual; that religion and civil law may coincide but the intent of each is different and do not touch and should be so held. That in his opinion the Churches would in no way be harmed by the operation of motion picture houses during church hours; that the churches have experienced a tremendous growth, and, in fact, the majority of the churches in Charlotte have stopped having evening services. Mr. Hasty summed up his remarks by stating first, that the present ordinance is discriminatory and does not permit the Theatre Owners the same opportunity in business that others enjoy, secondly, whether or not the Theatres operate from 6 to 9 o'clock is not a religious question but a civil matter for the City Council to decide, and third, that the Churches will suffer no harm from the passage of the proposed ordinance.

Dr. C. C. Warren, Pastor of The First Baptist Church speaking for the Mecklenburg Baptist Associational Board, spoke in opposition to the proposed relaxing of the Sunday Ordinance. He stated that Mr. Hasty is mistaken as to no services being held on Sunday evening, that sixty Baptist Churches hold training services, followed by religious services beginning at 6 o'clock on Sunday evening. That insofar as the separation of the Church and Civil Law is concerned, the City Council enacted the present Sunday Observance law. That in his opinion the list of competitive businesses operating on Sunday enumerated by Mr. Hasty is further proof that we have pretty near scuttled the Lord's Day. That the Sabbath Day should be one of rest, service to others and of works that are needful. That it is his belief that the cause of the Church in Charlotte and Mecklenburg County will be hampered if the Theatres are permitted to operate within the requested hours. That the Council is responsible for that which goes on in Charlotte, not in the County outside the city limits, and that two wrongs will not make a right by permitting these shows in Charlotte just because it is done outside the city.

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The Reverend Frank Jordan, presented a resolution, adopted by the Mecklenburg Methodist Ministers' Fellowship, including within its membership all of the Methodist Ministers in Charlotte, in which it was stated that the additional operation of Movies on Sunday would provide additional enticement to youth and adults from church activities, would be a lack of respect and reverence for the Sabbath Day, and asking that the City Council express their desire to "remember the Sabbath Day to keep it Holy" by not passing the proposed relaxation of the law.

Dr. Warner Hall, Pastor of the Covenant Presbyterian Church, stated it would seem more logical for the movie industry to launch its attack against the Television and not the Church, that it is the T.V. that is hurting their business. That there can^{also} be discrimination against the Church and the cause of Christ, whereas according to the teachings of the Bible, the Sabbath Day belongs to God. That history will prove that cities as well as nations that have put their society on a secular basis and neglected the spiritual life of the church, have not survived. That we are confronted with the anomalous situation of a pluralistic society, and society works best where there is a reflection of the majority's faith with toleration for the rights of the minority. That the capacity of Civil Authorities is to enact laws and the City Council has a responsibility in such enactment to see that the laws are meaningful and worthy. He urged that the Council let their action on the question reflect their faith in that which is best for the community and its citizens.

Others speaking in opposition to the amendment were the Reverend J. F. Johnson, Pastor of A.M.E. Zion Church; the Reverend Coleman W. Kerry, President of the local organization of Negro Baptist Ministers; the Reverend Russell Kerr, representing the Presbyterian Ministers Association; the Reverend Harry Thomas, Pastor of Calvary Baptist Church, who urged that the wishes of the majority be respected in the matter, rather than the minority representing the Theatre Owners. Dr. H. G. Bedinger, Pastor of the Presbyterian Church of Pineville, who appealed for consideration by the Council of the effect on the young people, who the Church is doing its level best to help and direct in the ways of christianity. The Reverend H. L. Ferguson, Pastor of Thomasboro Baptist Church, who stated the purpose of the Theatre, unlike that of the Church, is not to build character but rather to get money. Mr. Harvey Brown, spoke from the standpoint of a private citizen and the father of four children; Mr. James M. Yandle, Jr. as a Baptist layman, Mr. Woodrow Brown, Mr. John Nunn, Superintendent of the Young Peoples Department of the Matthews Baptist Church, who spoke in behalf of the boys and girls of all of Mecklenburg County, the Reverend Roy S. Liner, Pastor of Grace Baptist Church, the Reverend Howard Chadwick, Pastor of Westminster Presbyterian Church, and Mr. A. M. Kisiah presented a Petition from Midwood Baptist Church requesting the Council to refrain from extending the hours for the operation of Movies on Sunday evening. A resolution adopted by the Chantilly Baptist Church in opposition to the amendment was also filed.

Mr. Hasty stated that he found no fault with anything that has been said by the opposition. That it is not within his province as an attorney to say what one should do on Sunday, but that he does say it is not for the City Council to inculcate the religious viewpoint in the matter to the exclusion of the minority. That he did not say, infer or believe that the Church is hurting the Moving Picture business. That he does not think that religion should be the motivating cause of the Council's action in this matter.

Councilman Baxter stated he brought the question up at last week's meeting based entirely on the discrimination now in practice. That he feels the matter should be presented to the County Commissioners, and if they will operate the theatres outside the city limits to conform with the hours of the Charlotte theatres, then he will not favor a change in the law at all. He moved that the proponents and opponents ask the County Commissioners to end the discrimination by forcing the rural motion picture operators to conform to the schedule of theatre hours in Charlotte. The motion was seconded by Councilman Smith, and carried, with the votes cast as follows:

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YEAS: Councilmen Baxter, Boyd, Brown, Dellinger, Smith and Wilkinson.

NAYS: Councilman Albea.

Councilman Albea stated he thinks the matter should be settled by the Council today.

MAYOR PRO TEM SMITH PRESIDED FOR REMAINDER OF SESSION.

Mayor Van Every left the meeting at this time, and Mayor pro tem Smith presided for the remainder of the session.

RESOLUTION CHANGING NAME OF PORTION OF CELANESE DRIVE BACK TO PINEHURST PLACE.

The following resolution was introduced by Councilman Baxter, who moved its adoption after the reading thereof. The motion was seconded by Councilman Brown, and unanimously carried:

"RESOLUTION CHANGING THE NAME
OF A PORTION OF CELANESE DRIVE
BACK TO PINEHURST PLACE

WHEREAS, This City Council on December 30, 1953, changed the name of Pinehurst Place to the West of Selwyn Avenue and Forestdale Drive to the East of Selwyn Avenue leading to the Celanese Building to Celanese Drive, And

WHEREAS, it appears that said two sections of what is now known as Celanese Drive are not contiguous or an extension of each other,

NOW, THEREFORE, BE IT RESOLVED THAT that section of Celanese Drive formerly Pinehurst Place to the west of Selwyn Avenue be and the same is hereby renamed Pinehurst Place,

Approved as to form:

John D. Shaw, City Attorney "

MAYOR REQUESTED TO APPOINT COUNCIL COMMITTEE, INCLUDING CITY MANAGER, TO REPORT ON POSSIBLE NEW AVENUES OF REVENUE FOR THE 1954-1955 BUDGET.

Councilman Baxter stated that it is costing more to run the City each year to meet the needs of the citizens, and he moved that the Mayor appoint a Committee of Councilmen, including the City Manager, to report any possible new avenues of revenue in preparation for next year's budget. Councilman Boyd stated he must oppose such action on the grounds that he does not agree on new taxation other than what we now have. The motion was seconded by Councilman Dellinger, and the votes were cast as follows:

YEAS: Councilmen Baxter, Brown and Dellinger.

NAYS: Councilmen Albea, Boyd and Wilkinson.

Mayor pro tem Smith then cast the deciding ballot in the tie-vote, voting in the affirmative, and the motion carried.

CHARLOTTE SOCIETY OF OPTOMETRISTS GRANTED PERMISSION TO PARK TRAILER ON STREET NEAR SQUARE DURING WEEK OF MARCH 8th-15th FOR VISION TESTS FOR SAFE DRIVING.

Councilman Albea moved that the Charlotte Society of Optometrists be permitted to park a trailer on the street near The Square during the week of March 8th-15th for Vision Testing for Safe Driving, provided the owners of the Store, or Stores in front of which it is parked, have no objections. The motion was seconded by Councilman Brown, and unanimously carried.

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CONSTRUCTION OF SANITARY SEWER MAIN IN DUNBAR AND ELDRIGE STREETS APPROVED.

Councilman Dellinger moved approval of the construction of 374-feet of 8-inch sanitary sewer main in Dunbar and Eldrige Streets, at an estimated cost of \$910.00, to serve 7 family units being moved from the right-of-way of Independence Boulevard, at request of the State Highway Commission. All cost to be borne by the City. The motion was seconded by Councilman Brown, and unanimously carried.

SUBDIVISION PLATS APPROVED.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, Plats of the following Subdivisions were approved, as recommended by the Planning Board:

- (a) Plat of Willow Oak Acres, located between Yale Place and Townes Avenue on one side and between Willow Oak Road and Park Road on the other side.
- (b) Plat of Providence Park, located outside the city limits 1/4 mile from Sharon-Amity Road, fronting on both Providence and Randolph Roads.
- (c) Plat of Lyngwyn Park, located outside the city limits, and bounded by Ashley Road, Irvin Street and the C. D. Spanglin undeveloped property.

CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

Motion was made by Councilman Dellinger, seconded by Councilman Baxter, and unanimously carried, authorizing the construction of driveway entrances at the following locations:

- (a) One 35-ft. driveway at 1901 West Morehead Street.
- (b) One 10-ft. driveway at 505 Keswick Avenue.

CONTRACT AWARDED SUPERIOR STONE COMPANY FOR CRUSHED STONE.

Councilman Baxter moved that contract be awarded the low bidder, Superior Stone Company for 2,500 Tons Crushed Run, 1,500 Tons #10, 10,000 Tons #11 and 4,000 Tons of #12 Crushed Stone, estimated quantities, all as specified, on a unit price basis, representing a total net delivered price of \$44,845.00. The motion was seconded by Councilman Wilkinson, and unanimously carried.

CONTRACT AWARDED CONTRACTORS SERVICE, INC. FOR AIR COMPRESSOR.

Upon motion of Councilman Brown, seconded by Councilman Baxter, and unanimously carried, contract was awarded the low bidder, Contractors Service Inc., for One Le Roi Air Compressor, as specified, at a total exchanged price of \$2,798.00, less cash discount of \$10.00.

CONTRACT AWARDED CONTRACTORS SERVICE, INC. FOR ONE DIAPHRAM PUMP.

Motion was made by Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, awarding contract to the low bidder, Contractors Service, Inc., for One Diaphragm Pump, as specified, at a total price of \$480.00 less cash discount of \$9.60.

CONTRACT AWARDED E. F. CRAVEN COMPANY FOR ONE TRAILER MOUNTED MAINTENANCE UNIT.

Councilman Baxter moved that contract be awarded the low bidder, E. F. Craven Company, for One Trailer Mounted Maintenance Unit, as specified, at a net delivered price of \$1,597.00. The motion was seconded by Councilman Dellinger, and unanimously carried.

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OMFHD

CONTRACT AWARDED LYNCHBURG FOUNDRY COMPANY FOR CAST IRON PIPE & FITTINGS.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, contract was awarded the low bidder, Lynchburg Foundry Company for 20,000 ft. of 6-inch and 10,000 ft. of 8-inch Cast Iron Pipe, as specified, on a unit price basis, representing a net delivered price of \$51,700.00 and for 92 Cast Iron Pipe Fittings, as specified, on a unit price basis, representing a net delivered price of \$1,877.76.

CONTRACT AWARDED THE DOWD PRESS, INC. FOR 400,000 WATER BILL FORMS.

Councilman Brown moved that contract be awarded the low bidder, The Dowd Press, Inc., for 400,000 water bill forms, as specified, at a net delivered price of \$1,456.00. The motion was seconded by Councilman Baxter and unanimously carried.

SETTLEMENT OF CLAIM OF W. E. RICHARDSON FOR PERSONAL INJURIES.

Councilman Brown moved that the claim of Mr. W. E. Richardson for injuries sustained by stepping into an open water meter box on North Davidson Street, be settled at \$1,500.00, as recommended by the City Attorney. The motion was seconded by Councilman Baxter, and unanimously carried.

RACHEL STREET TAKEN OVER FOR MAINTENANCE.

Upon motion of Councilman Albea, seconded by Councilman Baxter, and unanimously carried, Rachel Street, from Metz Avenue south 250 feet, was taken over for maintenance.

RESOLUTION CLOSING STAR STREET WEST OF SOUTH CALDWELL STREET AND EAST OF INDEPENDENCE BOULEVARD.

A resolution entitled: "Resolution Closing Star Street West of South Caldwell Street and East of Independence Boulevard" was introduced and read. Councilman Brown moved the adoption of the resolution, which was seconded by Councilman Albea, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 172.

RESOLUTION AUTHORIZING QUITCLAIM CONVEYANCES OF THE CITY'S INTEREST IN STAR STREET.

A resolution entitled: "Resolution Authorizing Quitclaim Conveyances of the City's Interest in Star Street" was introduced and read. Upon motion of Councilman Dellinger, seconded by Councilman Wilkinson, and unanimously carried, the resolution was adopted. The resolution is recorded in full in Resolutions Book 2, at Page 173.

ADJOURNMENT.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, the meeting was adjourned.

Leellian R. Hoffman
City Clerk