

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, June 26, 1957, at 11 o'clock a.m., with Mayor Smith presiding, and Council members Albee, Baxter, Brown, Dellinger, Feard and Wilkinson being present.

ABSENT: Councilwoman Evans.

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INVOCATION.

The invocation was given by Councilman Herman A. Brown.

MINUTES APPROVED.

Upon motion of Councilman Wilkinson, seconded by Councilman Dellinger, and unanimously carried, the Minutes of the last meeting on June 19th were approved as submitted.

COUNCIL ACTION ON JUNE 19TH DENYING PETITION FOR CHANGE IN ZONING FROM R-2 TO B-1 OF PROPERTY AT NORTHWEST CORNER OF PARK ROAD AND WOODLAWN ROAD, REQUESTED RESCINDED BY PETITIONERS.

Mr. Ben Horack, Attorney for the petitioners for a change in zoning, from R-2 to B-1, of property at the northwest corner of Park Road and Woodlawn Road, appeared before Council and presented a strong appeal that the action of Council on June 19th denying the request for the change in zoning, be rescinded. Mr. Horack based his appeal on the fact that the Council, and the Planning Board have consistently adhered to the rule that where two corner lots of an intersection are zoned for business, the same zoning must apply to the remaining corner lots, on petition of the owners. He called to the attention of the Council that such zoning is not a matter of policy, but of law, which makes it mandatory, and, therefore, it leads his clients to wonder if the Council in denying their petition is inviting a legal test of the two-corner law.

Mr. Horack stated further that Section 160-173 of the General Statutes provides that "it shall be the duty of such legislative body upon written application from the owner of the other corners of said intersection to redistrict and regulate the remaining said corners of said intersecting streets in the same manner"; making the rule mandatory; that the Charlotte Zoning Ordinance says the same thing, and the Planning Board's recommendations are based on the same rule, and petitioners for changes base their appeals on the rule, assuming that the City Council will uphold the law. He called attention that the Enabling Act for Perimeter Zoning plainly states that the regulations pertaining to planning, zoning, etc. effective within the City of Charlotte shall also apply within the perimeter area.

Councilman Dellinger stated he is of the opinion that the two corner law was changed by the Legislature, to which Mr. Yancey, City Manager, replied that the changes regarding perimeter zoning did not refer to the two corner law.

Councilman Baxter stated that he felt that trends or changing conditions of an area must be considered; that the requested change in zoning could affect a large residential area along Park Road. That, in his opinion, the 2-corner law should be changed, and, in fact a large number of counties in the state have already been exempted from the rule by legislative enactment.

Mr. Horack stated that the Council's decision cannot be based on whether or not the law should be changed, but rather on what the law is today, and today it is mandatory; that neither trends, pressure groups or sympathy with residential property owners should be taken into consideration - only the duty imposed by law.

Councilman Albea stated that the Planning Board's recommendation on this petition to the Council was "it is understood that this zoning change is mandatory under the State Statutes - otherwise it would not be recommended for approval".

Mr. Horack ended his remarks by renewing his request that the Council consider and rescind its action on June 19th.

**APPLICATION OF ALSTATE MICRO MIDGET RACING ASSOCIATION FOR BUILDING PERMIT TO ERECT GRANDSTAND IN 2800 BLOCK OF MONROE ROAD, IN AN INDUSTRIAL ZONE, DENIED.**

Mr. Allen Bailey, Attorney, appeared before Council, relative to the application of Alstate Micro Midget Racing/<sup>Association</sup> for a building permit to erect a grandstand in the 2800 block of Monroe Road, in an Industrial Zone, which is before the Council for action today. He advised that when Mr. Helms, owner of the Race Track, applied for the permit and paid the necessary fee, he did not understand that it must be approved by the City Council, and he has proceeded with the construction of the Grandstand. Mr. Bailey further advised that the race track itself had been completed, at a cost of \$10,000.00, prior to requesting the permit for the grandstand, which is estimated to cost \$2,000.00; therefore, unless the permit is granted a large investment will be a total loss to his clients. He termed it an honest mistake on the part of his clients in proceeding with the construction prior to final approval and urged that the Council approve the issuance of the permit.

Councilman Foard stated that residents of the neighborhood have been complaining about the noise. Mr. Bailey stated that the races are planned for Saturday evening from 7 p.m. to not later than 10:30 p.m. He also called attention to the fact that the track lies along the railroad tracks, over which 18 to 20 trains pass daily, and which are used by the railroad for shifting purposes, and that the noise from the races should not be greater than caused by these trains. He stated that the midget cars are one cylinder and do not create a great amount of noise.

Mayor Smith asked if it would be feasible to put mufflers on the cars, to which Mr. Helms replied he did not know, but would investigate it and they would do everything possible to decrease the noise in order to save their investment.

Councilman Dellinger moved that action be deferred until Mr. Helms can see if the motors can be muffled. He stated further he does not mean that work may proceed on the grandstand in the meanwhile. The motion was lost for lack of a second.

Councilman Wilkinson moved that the application for the building permit be disapproved. The motion was seconded by Councilman Baxter, and un-animously carried.

**COUNCIL MEETINGS AUTHORIZED HELD EVERY OTHER WEEK DURING JULY AND AUGUST, OMITTING THE MEETING ON JULY 3RD.**

Councilman Dellinger moved that the regular Council Meetings be held every other week during July and August, omitting the meeting on July 3rd. The motion was seconded by Councilman Baxter, and carried, with the votes cast as follows:

YEAS: Councilmen Baxter, Brown, Dellinger, Foard and Wilkinson.

NAYS: Councilman Albea.

APPLICATION FOR BUILDING PERMIT TO ERECT TEMPORARY CEMENT BINS ON HOSKINS MILLS PROPERTY, FOR UNLOADING CEMENT ETC., FOR PAVING BYPASS #29, APPROVED.

Upon motion of Councilman Dellinger, seconded by Councilman Baxter, and unanimously carried, a building permit was authorized issued to erect temporary cement bins on Hoskins Mills Property, for unloading cement, etc., for paving Bypass #29.

PETITION FOR CHANGE IN ROUTING OF EITHER PROVIDENCE ROAD BUS OR QUEENS ROAD BUS SO THAT ONE BUS WILL MAKE TURN BACK TO CITY ON HARRIS ROAD, INSTEAD OF BOTH BUSES TURNING ON WENDOVER ROAD.

The City Manager presented a Petition, signed by 30 residents of the Providence Road, Wendover Road, and Sharon Road sections, requesting a change in the routing of either the Providence Road Bus or Queens Road Bus, so that one bus will make the turn back to the city on Harris Road, instead of both busses turning on Wendover Road.

Councilman Brown moved that the petition be referred to the Bus Company for proper handling and consideration. The motion was seconded by Councilman Baxter and unanimously carried.

CITY ATTORNEY INSTRUCTED TO DRAW NECESSARY PAPERS FOR CONDEMNATION OF PROPERTY FOR OPENING OF LEROY STREET, FROM SKYLAND AVENUE TO ELM STREET, AND PROVIDING AN ENTRANCE FOR PARK DONATED TO PARK & RECREATION COMMISSION.

Upon motion of Councilman Dellinger, seconded by Councilman Brown, and unanimously carried, the City Attorney was instructed to draw the necessary papers for the condemnation of property belonging to Thomas and Carrie Reid, for the purpose of opening Leroy Street, from Skyland Avenue to Elm Street, providing an entrance for a Park, donated to the Park & Recreation Commission by Mr. J. Mason Wallace.

CONTRACT AWARDED CROWDER CONSTRUCTION COMPANY FOR CONSTRUCTION OF BRIDGE ON TUCKASEEGEE ROAD.

Councilman Wilkinson moved that contract be awarded the low bidder, Crowder Construction Company, for construction of a bridge on Tuckaseegee Road over Stewart Creek, on a lump sum basis to be completed within 90 days, at a total bid price of \$41,445.00. The motion was seconded by Councilman Albea, and unanimously carried.

Bids received for the construction of the bridge are as follows:

Crowder Construction Co.	\$41,445.00
Blythe Bros. Company	\$57,000.00
Boyd & Goforth, Inc.	\$58,550.00
Rea Construction Co.	\$64,000.00

## CONTRACT AWARDED ELECTRIC ICE &amp; FUEL COMPANY, INC. FOR COAL.

Motion was made by Councilman Albea, seconded by Councilman Baxter, and unanimously carried, awarding contract to the low bidder, Electric Ice & Fuel Company, Inc., for 500 tons, estimated quantity, of Stoker Coal at \$10.85, and 700 tons, estimated quantity, of Pocahontas stove or egg coal at \$13.14, all as specified, on a unit price basis, representing a total net delivered price of \$14,623.00.

The following bids were received on the Coal:

Electric Ice & Fuel Co., Inc.	\$14,623.00
Royal Coal & Coke Co.	\$14,825.00
Patterson Coal & Oil Co.	\$15,373.00
Southeastern Ice & Coal Co.	
Bid Incomplete	\$ 5,850.00

## CONTRACT AWARDED CRANE COMPANY FOR WROUGHT IRON PIPE.

Upon motion of Councilman Baxter, seconded by Councilman Brown, and unanimously carried, contract was awarded the low bidder, Crane Company, for 52,000 feet of 3/4" Wrought Iron Pipe, 3,000 feet of 1", 2,000 ft. 1 1/4", 2,000 ft. 1 1/2", 26,000 ft. of 2" and 200 ft. of 4", on a unit price basis, representing a total price of \$40,091.20, subject to cash discount of \$801.82, or a net delivered price of \$39,289.38.

Bids received on the Pipe were as follows:

Crane Co.	\$40,091.20
Less cash discount	801.82
Net delivered price	<u>\$39,289.38</u>
Atlas Supply Co.	\$40,168.50
Less cash discount	803.37
Net delivered price	<u>\$39,365.13</u>
Horne-Wilson, Inc.	\$40,619.42
Less cash discount	812.39
Net delivered price	<u>\$39,807.03</u>
Grinnell Co., Inc.	\$40,788.54
Less cash discount	704.76
Net delivered price	<u>\$40,083.78</u>
Noland Co., Inc.	\$41,473.42
Less cash discount	829.47
Net delivered price	<u>\$40,643.95</u>

## SUPPLEMENTARY CONTRACT AUTHORIZED WITH BLYTHE BROS. TO CONTRACT FOR STREET IMPROVEMENTS ON ELEVENTH STREET.

Councilman Brown moved approval of a supplementary contract with Blythe Bros. Company, to contract dated February 27, 1957, for street improvements on Eleventh Street, covering overrun of \$5,644.46 in the bid price of \$26,616.70. The motion was seconded by Councilman Wilkinson, and unanimously carried.

REQUEST OF DUKE POWER COMPANY FOR CONSTRUCTION OF UNDERGROUND VAULT AND GRATING IN SIDEWALK AREA ON WEST EIGHT STREET FOR J. E. BURNSIDE OF THE FINANCE BUILDING, APPROVED.

Councilman Baxter moved approval of the request of the Duke Power Company to construct an underground vault and grating in the proposed sidewalk area of the set-back widening line in front of West Eight Street, for Mr. J. E. Burnside of the Finance Building. The motion was seconded by Councilman Wilkinson, and unanimously carried.

RENEWAL OF SPECIAL OFFICER PERMIT TO W. B. COLE ON PREMISES OF PARK & RECREATION COMMISSION.

Motion was made by Councilman Brown, seconded by Councilman Baxter, and unanimously carried, authorizing the renewal of the Special Officer Permit to W. B. Cole, on the premises of the Park & Recreation Commission.

CONSTRUCTION OF DRIVEWAY ENTRANCES APPROVED.

Councilman Albea moved approval of the construction of driveway entrances at the following locations, which was seconded by Councilman Wilkinson, and unanimously carried:

- (a) One 25½ Ft. driveway entrance on Boundry St. and two 20 Ft. entrances on S. McDowell St., all for 630 S. McDowell Street.
- (b) One 21 Ft. and one 8 Ft. driveway entrance for 2030 East 7th Street.
- (c) One 12 Ft. driveway entrance for 617 Grandin Road.

TRANSFER OF CEMETERY LOTS.

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

- (a) Deed with B. L. Wilhelm and wife, Addie M. Wilhelm for Lot 313, Section 2, Evergreen Cemetery, at \$160.00.
- (b) Deed with Mrs. John Marshall Davenport, Sr. and James Francis Caldwell and wife, Helen D. Caldwell for Lot 206, Section 4-A, Evergreen Cemetery, at \$126.00.

ADJOURNMENT.

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

  
Lillian R. Hoffman, City Clerk