

A regular meeting ~~of the meeting~~ of the City Council was held in the Council Chamber, City Hall, on Wednesday, November 15, 1950, at 11 o'clock a.m., with Mayor Shaw presiding, and Councilmen Aitken, Albea, Boyd, Coddington Daughtry, Jordan and Wilkinson present.

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INVOCATION.

The invocation was given by Mr. Paul R. Ervin.

MINUTES APPROVED.

Upon motion of Councilman Jordan, seconded by Councilman Aitken, and unanimously carried, the minutes of the last meeting were approved as submitted.

ORDINANCE (NO. 122) AMENDING THE ZONING ORDINANCE ADOPTED.

The hearing continued from the November 1st meeting was opened for discussion, to amend the Zoning Ordinance by changing the Building Zone Map from R-2 to Industrial on two lots fronting on Grandin Road at the intersection of Grandin Road and West Morehead Street, at the request of Power Brake Company.

Mr. Paul Ervin, representing the petitioner, stated he had again checked the position of the line of demarcation between the Industrial and residential zones in question. That prior to the beginning of the construction on the lots it was found there is no metes and bounds description of the property; that the owners had the property surveyed by the County Surveyor who put a dotted line on the map which it was assumed was the zoning line. However, in again checking the zoning line with the City Engineer on yesterday, it was found by the City Engineer in scaling the area that all of Lot 39 and all of Lot 40, with the exception of the northwest corner portion, are already in the Industrial Zone, as, in fact, is the adjoining property belonging to Mr. Hufstetler. Mr. Ervin stated that in view of this new evidence that Power Brake Company feels they have the right to use the property for industrial purposes, and they would like the corner portion now in an R-2 zone to be included in the industrial zone. He further stated that the policy of the Zoning Board of Adjustment is that where over 50% of a piece of property is in one zone and the remainder in another, the smaller area is included in the zone with the larger portion. Mr. Ervin presented the zoning map and the City Engineer explained the scaling of the area in question.

Mr. Charles Myers, Attorney representing the opposition to the change in zoning stated that the map presented is the 1947 original zoning map and not the current zoning map adopted in 1949 which shows the property as being in an R-2 district. The City Attorney stated that the zoning map adopted in 1949 was for the purpose of zoning the area annexed in January 1949 and did not otherwise change the original zoning map. The City Attorney further stated that the Council could not change the zoning lines if the City Engineer has established the lines, but if the description of the property in question includes the northwest corner section then the Council may rezone it as industrial if they so desire, as requested by Mr. Ervin. Mr. Myers then inquired if the Council is basing its decision on the 1947 or the 1949 map and was advised that the City Engineer is using the 1947 map which he has scaled.

Councilman Wilkinson moved that the ordinance be adopted. Motion was seconded by Councilman Daughtry, and the votes were cast as follows:

AYE: Councilmen Aitken, Coddington, Daughtry, Jordan and Wilkinson.  
NAY: Councilmen Albea and Boyd.

The motion, which required a three-fourth vote of the Council was lost, the petition required by law opposing the rezoning having been filed and accepted.

Mr. Ervin stated his client would proceed with the construction on

the property in the Industrial Zone and the northwest triangular corner left in the R-2 zone will be a loss to his client.

Councilman Boyd stated that in view of the fact that it has been established that all of the property is already in an Industrial zone with the exception of the triangle, it would appear foolish to leave it in an R-2 zone and deprive the owner of its use; he, therefore, moved that the matter be reconsidered. Motion was seconded by Councilman Daughtry, and unanimously carried.

Councilman Wilkinson then moved that the corner portion of Lot 40 be changed from an R-2 to an Industrial Zone. Motion was seconded by Councilman Daughtry, and carried, with the votes cast as follows:

AYE: Councilmen Aitken, Boyd, Coddington, Daughtry, Jordan and Wilkinson.

NAY: Councilman Albea.

The ordinance is recorded in full in Ordinance Book 11, at Page 191.

REQUEST THAT IMPROVEMENTS TO 36TH STREET BE POSTPONED UNTIL SPRING GRANTED.

Mr. D. C. Staton, Mr. B. B. Young, Mr. Val Guthery and Mr. Wilson of the North Charlotte Branch of the American Trust Company, appeared before Council with regard to the proposed resurfacing of 36th Street at the City's expense as authorized by Council on November 8th.

Mr. Young stated they would like to have 36th Street paved instead of resurfaced and, also, have the street widened and curbs and gutters constructed. That the street has become a thoroughfare and the improvement is badly needed as it is an 18-foot street at present and the widening could be for an additional 6 to 8 feet. Each of the representatives of the area urged that the necessary improvements to the street be made instead of just the resurfacing. It was explained that under the existing law paving, widening and curb and gutters would have to be assessed against the abutting property owners. Mr. Young and Mr. Staton both then stated that the residents would much prefer not having the street resurfaced at this time but wait until spring and see if the General Assembly might pass certain legislation which might relieve them of some portion of the cost of the work as desired.

Mr. Yancey, City Manager, was then directed to have a survey of the street made to determine the cost of the proposed work on a front foot basis so that each property owner might be informed as to the total cost to him, and to furnish the information to Mr. Staton.

ACTION ON NOVEMBER 18TH RESCINDED RELATIVE TO PLACING RESTRICTIONS ON CITY PROPERTY ON HARDING PLACE AND GREENWOOD CLIFF.

Mr. Ben Horack, Attorney, representing Mr. L. J. Spiers, appeared before Council in protest of the action on November 18th placing certain restrictions on the City's property on Harding Place and Greenwood Cliff, and authorizing its advertisement and sale in accordance with these restrictions. Mr. Horack stated that Mr. Spiers offered to purchase the vacant property from the City last spring, and the property was advertised for sale and bid in by Mr. Spiers who desired to erect an apartment house thereon. That the property is in an R-2 Zone which permits the construction of apartment houses. That residents of the area learned of the deal and submitted an upset bid, and since that time the property has been readvertised and rebid by Mr. Spiers and the residents several times. He stated that in his client's opinion the residents do not wish a building placed on the property, in which case the taxpayers will realize a loss by the non-sale of the property as Mr. Spiers is only interested in it for the erection of an apartment house and not as restricted. He further stated that the residents should take the matter to the Zoning Board of Adjustment rather than to have requested the Council to impose restrictions on it. Mr. Horack advised that his client feels the bid has been frozen to him and requests that the restrictions be removed and the property advertised for sale as originally done.

Councilman Boyd stated that the practice of "chilling a bid" is

illegal and the information presented changes the matter entirely. He moved that the action of the Council on November 8th relative to the readvertisement and sale with certain restrictions be rescinded and declared null and void. The motion was seconded by Councilman Aitken, and unanimously carried.

RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS ON CENTRAL AVENUE FROM S.A.L. RAILROAD CROSSING EAST TO THE PLAZA.

A resolution entitled, "Resolution Authorizing Permanent Improvements on Central Avenue from the Seaboard Airline Railroad Crossing east to The Plaza" was introduced and read, and upon motion of Councilman Albea, seconded by Councilman Wilkinson, was unanimously passed on its first reading. Resolution is recorded in full in Resolutions Book 1, at Page 343.

RESOLUTION AUTHORIZING ADVERTISEMENT OF NOTICE OF RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS ON CENTRAL AVE. FROM S.A.L. RAILROAD CROSSING EAST TO THE PLAZA.

A resolution entitled, "Resolution Authorizing Advertisement of Notice of Resolution Authorizing Permanent Improvements on Central Avenue from the Seaboard Airline Railroad Crossing East to The Plaza" was introduced and read, and upon motion of Councilman Boyd, seconded by Councilman Wilkinson, was unanimously adopted. Resolution is recorded in full in Resolutions Book 1, at Page 344.

CONFERENCE WITH DUKE POWER COMPANY RELATIVE TO BUS CHANGES AUTHORIZED FIXED FOR TUESDAY EVENING, NOVEMBER 21st, IF POSSIBLE.

Councilman Boyd urged that the Council decide on its action relative to the bus situation now that the public hearing has been held; he stated he is particularly anxious that bus service be provided for the outlying areas without any service whatsoever.

Councilman Coddington moved that arrangements be made with the Duke Power Company to go over the recommendations of the Council and see what can be worked out. Motion was seconded by Councilman Daughtry, and unanimously carried. The Council then requested the City Manager to arrange a conference with the Duke Power Company for Tuesday evening, November 21st, if possible.

RESOLUTION WITH RESPECT TO THE CONSTRUCTION OF RAILROAD TRACKS BY SOUTHERN RAILWAY COMPANY TO SERVE HORNE WILSON CO. AND FOREMOST DAIRIES, INC. AND CROSSING EAST 16th STREET AT GRADE.

A resolution entitled, "Resolution with Respect to the Construction of Railroad Tracks by Southern Railway Company to serve Horne Wilson Co. and Foremost Dairies, Inc. and Crossing East 16th Street at Grade" was introduced and read, and upon motion of Councilman Wilkinson, seconded by Councilman Jordan, was unanimously adopted. Resolution is recorded in full in Resolutions Book 1, at Page 345.

REIMBURSEMENT OF DEPOSIT COVERING CONSTRUCTION OF WATER MAINS IN WESTWOOD APARTMENTS AREA AUTHORIZED TO C. D. SPANGLER COMPANY.

Councilman Coddington moved that the C. D. Spangler Company be reimbursed \$8,925.09 advanced by them for the construction of water mains in the Westwood Apartments area on Berryhill Road, under contract dated July 19, 1950. Motion was seconded by Councilman Aitken, and unanimously carried.

APPROVAL OF PLAT OF SECTION OF CHERRYTOWN.

Upon motion of Councilman Wilkinson, seconded by Councilman Daughtry and unanimously carried, plat of section of Cherrytown, being the property of Mrs. Marguerite S. Myers, was approved as recommended by the Planning Board.

CONTRACT AWARDED E. F. CRAVEN COMPANY FOR PAYLOADER.

Upon motion of Councilman Jordan, seconded by Councilman Aitken, and unanimously carried, contract was awarded the E. F. Craven Company for One Hough Payloader, completely equipped with bucket, at a net delivered price of \$5,000.00.

## STREETS TAKEN OVER FOR MAINTENANCE.

Motion was made by Councilman Daughtry, seconded by Councilman Aitken, and unanimously carried, authorizing taking over for maintenance the following streets:

- (a) Melbourne Court complete from Marsh Rd. around circle.
- (b) Marion Place from Marsh Road to Melbourne Court.
- (c) Westfield Road from Sterling Rd. South to end of present maintenance near Ridgewood Ave.
- (d) Lynwood Drive from Sterling Road to Westfield Road.
- (e) Jamestown Drive from Lynwood Drive to Westfield Road.
- (f) Greystone Road from South Boulevard to Belton Street.
- (g) Dexter Street from Greystone Road to Dover Street.
- (h) Dover Ave. from Dexter Street to Belton Street.
- (i) Belton Street from Greystone Road to Dover Avenue.

## CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

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

- (a) One 10-ft. driveway at 210 State Street.
- (b) One 12-ft. driveway on E. Tremont Ave. for 2001 S. Boulevard.
- (c) One 10-ft. driveway at 117 North Breward St.
- (d) One 12-ft. driveway at 2049 Hopedale Avenue.
- (e) One 14-ft. driveway at 2015 Wendover Road.

## LEASE WITH CIVIL AERONAUTICS ADMINISTRATION FOR SPACE IN OLD ADMINISTRATION BUILDING AT DOUGLAS MUNICIPAL AIRPORT.

Councilman Coddington moved that lease be authorized with the Civil Aeronautics Administration for one room on the first floor of the Old Administration Building at Douglas Municipal Airport at \$1.00 per annum from November 1, 1950 to June 30, 1951. Motion was seconded by Councilman Aitken, and unanimously carried.

## REPORT OF LEASE OF SPACE IN AIRPORT TERMINAL TO RYDER CAR RENTAL SYSTEM.

The City Manager reported that lease has been concluded with Ryder Car Rental System for space in the Airport Terminal for booth, or stand, at a rental of 5% of gross revenue derived from the operation of its Airport business; said lease to be terminated by either party on 30 days written notice.

## CEMETERY LOTS TRANSFERRED.

Upon motion of Councilman Boyd, seconded by Councilman Coddington 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. Bernice W. Heckendorn, for northwest quarter of Lot 163, in Section 3, Evergreen Cemetery, at \$26.00.
- (b) Deed with J. C. Pardee, for Lot 41, in Section 3, Evergreen Cemetery, at \$208.00.

## ADJOURNMENT.

Upon motion of Councilman Aitken, seconded by Councilman Albea, and unanimously carried, the meeting was adjourned.

*Lillian R. Hooper*  
City Clerk